(Original Signature of Member)

109TH CONGRESS 1ST SESSION

H.R.

To reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes.

Mr. Baker (for	r himself and Mr. OXLEY) introduced the following	flowing bill; which
was referred	to the Committee on	

A BILL

To reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.
- 4 (a) SHORT TITLE.—This Act may be cited as the
- 5 "Federal Housing Finance Reform Act of 2005".
- 6 (b) Table of Contents for
- 7 this Act is as follows:
 - Sec. 1. Short title and table of contents.
 - Sec. 2. Definitions.



TITLE I—REFORM OF REGULATION OF ENTERPRISES AND FEDERAL HOME LOAN BANKS

Subtitle A —Improvement of safety and soundness

- Sec. 101. Establishment of the Federal Housing Finance Agency.
- Sec. 102. Duties and authorities of Director.
- Sec. 103. Housing Finance Oversight Board.
- Sec. 104. Authority to require reports by regulated entities.
- Sec. 105. Assessments.
- Sec. 106. Examiners and accountants.
- Sec. 107. Prohibition and withholding of executive compensation.
- Sec. 108. Reviews of regulated entities.
- Sec. 109. Regulations and orders.
- Sec. 110. Risk-based capital requirements.
- Sec. 111. Minimum and critical capital levels.
- Sec. 112. Review of and authority over enterprise assets and obligations.
- Sec. 113. Corporate governance of enterprises.
- Sec. 114. Conforming amendments.

Subtitle B—Improvement of mission supervision

- Sec. 121. Transfer of program and activities approval and housing goal oversight.
- Sec. 122. Review by director of new programs and activities of enterprises.
- Sec. 123. Conforming loan limits.
- Sec. 124. Annual housing report regarding regulated entities.
- Sec. 125. Establishment of housing goals.
- Sec. 126. Home purchase goal and additions, modifications, and rescissions to goals.
- Sec. 127. Other requirements.
- Sec. 128. Monitoring and enforcing compliance with housing goals.
- Sec. 129. Enforcement.
- Sec. 130. Conforming amendments.

Subtitle C—Prompt corrective action

- Sec. 141. Capital classifications.
- Sec. 142. Supervisory actions applicable to undercapitalized regulated entities.
- Sec. 143. Supervisory actions applicable to significantly undercapitalized regulated entities.
- Sec. 144. Authority over critically undercapitalized regulated entities.
- Sec. 145. Conforming amendments.

Subtitle D—Enforcement actions

- Sec. 161. Cease-and-desist proceedings.
- Sec. 162. Temporary cease-and-desist proceedings.
- Sec. 163. Enforcement and jurisdiction.
- Sec. 164. Civil money penalties.
- Sec. 165. Removal and prohibition authority.
- Sec. 166. Criminal penalty.
- Sec. 167. Conforming amendments.

Subtitle E—General provisions

Sec. 181. Presidentially appointed Directors of enterprises.



- Sec. 182. Report on portfolio operations, safety and soundness, and mission of enterprises.
- Sec. 183. Conforming and technical amendments.
- Sec. 184. Effective date.

TITLE II—FEDERAL HOME LOAN BANKS

- Sec. 201. Definitions.
- Sec. 202. Directors.
- Sec. 203. Federal Housing Finance Agency oversight of Federal Home Loan Banks.
- Sec. 204. Debt issuing facility.
- Sec. 205. Securities and Exchange Commission disclosure.
- Sec. 206. Community financial institution members.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT AND FEDERAL HOUSING FINANCE BOARD

Subtitle A—Office of Federal Housing Enterprise Oversight

- Sec. 301. Abolishment of OFHEO.
- Sec. 302. Continuation and coordination of certain regulations.
- Sec. 303. Transfer and rights of employees of OFHEO.
- Sec. 304. Transfer of property and facilities.

Subtitle B—Federal Housing Finance Board

- Sec. 321. Abolishment of the Federal Housing Finance Board.
- Sec. 322. Continuation and coordination of certain regulations.
- Sec. 323. Transfer and rights of employees of the Federal Housing Finance Board.
- Sec. 324. Transfer of property and facilities.

1 SEC. 2. DEFINITIONS.

- 2 Section 1303 of the Housing and Community Devel-
- 3 opment Act of 1992 (12 U.S.C. 4502) is amended—
- 4 (1) by striking "an enterprise" each place such
- 5 term appears (except in paragraphs (4), (13)(A),
- and (18)) and inserting "a regulated entity";
- 7 (2) by striking "the enterprise" each place such
- 8 term appears (except in paragraphs (4) and (18))
- 9 and inserting "the regulated entity";
- 10 (3) in paragraph (5), by striking "Office of
- 11 Federal Housing Enterprise Oversight of the De-



1	partment of Housing and Urban Development" and
2	inserting "Federal Housing Finance Agency";
3	(4) in each of paragraphs (8), (9), (10), and
4	(19), by striking "Secretary" each place that term
5	appears and inserting "Director";
6	(5) in paragraph (13), by inserting ", with re-
7	spect to an enterprise," after "means"; and
8	(6) by redesignating paragraphs (16) through
9	(19) as paragraphs (19) through (22), respectively;
10	(7) by striking paragraphs (14) and (15) and
11	inserting the following new paragraphs:
12	"(17) REGULATED ENTITY.—The term 'regu-
13	lated entity' means—
14	"(A) the Federal National Mortgage Asso-
15	ciation and any affiliate thereof;
16	"(B) the Federal Home Loan Mortgage
17	Corporation and any affiliate thereof; and
18	"(C) each Federal home loan bank.
19	"(18) REGULATED ENTITY-AFFILIATED
20	PARTY.—The term 'regulated entity-affiliated party'
21	means—
22	"(A) any director, officer, employee, or
23	controlling stockholder of, or agent for, a regu-
24	lated entity;



1	"(B) any shareholder, affiliate, consultant,
2	or joint venture partner of a regulated entity,
3	and any other person, as determined by the Di-
4	rector (by regulation or on a case-by-case basis)
5	that participates in the conduct of the affairs of
6	a regulated entity; and
7	"(C) any independent contractor for a reg-
8	ulated entity (including any attorney, appraiser,
9	or accountant), if—
10	"(i) the independent contractor know-
11	ingly or recklessly participates in—
12	"(I) any violation of any law or
13	regulation;
14	"(II) any breach of fiduciary
15	duty; or
16	"(III) any unsafe or unsound
17	practice; and
18	"(ii) such violation, breach, or prac-
19	tice caused, or is likely to cause, more than
20	a minimal financial loss to, or a significant
21	adverse effect on, the regulated entity; and
22	"(D) any not-for-profit corporation that re-
23	ceives its principal funding, on an ongoing
24	basis, from any regulated entity.";



1	(8) by redesignating paragraphs (2) through
2	(13) as paragraphs (5) through (16), respectively;
3	and
4	(9) by inserting after paragraph (1) the fol-
5	lowing new paragraphs:
6	"(2) AGENCY.—The term 'Agency' means the
7	Federal Housing Finance Agency.
8	"(3) Authorizing statutes.—The term 'au-
9	thorizing statutes' means—
10	"(A) the Federal National Mortgage Asso-
11	ciation Charter Act;
12	"(B) the Federal Home Loan Mortgage
13	Corporation Act; and
14	"(C) the Federal Home Loan Bank Act.
15	"(4) BOARD.—The term 'Board' means the
16	Housing Finance Oversight Board established under
17	section 1313.".



1	TITLE I—REFORM OF REGULA-
2	TION OF ENTERPRISES AND
3	FEDERAL HOME LOAN BANKS
4	Subtitle A —Improvement of Safety
5	and Soundness
6	SEC. 101. ESTABLISHMENT OF THE FEDERAL HOUSING FI-
7	NANCE AGENCY.
8	The Housing and Community Development Act of
9	1992 (12 U.S.C. 4501 et seq.) is amended by striking sec-
10	tions 1311 and 1312 and inserting the following:
11	"SEC. 1311. ESTABLISHMENT OF THE FEDERAL HOUSING
12	FINANCE AGENCY.
13	"(a) Establishment.—There is established the
14	Federal Housing Finance Agency, which shall be an inde-
15	pendent agency of the Federal Government.
16	"(b) General Supervisory and Regulatory Au-
17	THORITY.—
18	"(1) IN GENERAL.—Each regulated entity shall,
19	to the extent provided in this title, be subject to the
20	supervision and regulation of the Agency.
21	"(2) Authority over fannie mae and
22	FREDDIE MAC, FEDERAL HOME LOAN BANKS, AND
23	FEDERAL HOME LOAN BANK FINANCE CORPORA-
24	TION.—The Director of the Federal Housing Fi-

nance Agency shall have general supervisory and



1	regulatory authority over each regulated entity and
2	the Federal Home Loan Bank Finance Corporation,
3	and shall exercise such general regulatory authority,
4	including such duties and authorities set forth under
5	section 1313 of this Act, to ensure that the purposes
6	of this Act, the authorizing statutes, and any other
7	applicable law are carried out.
8	"(c) Savings Provision.—The authority of the Di-
9	rector to take actions under subtitles B and C shall not
10	in any way limit the general supervisory and regulatory
11	authority granted to the Director under subsection (b).
12	"SEC. 1312. DIRECTOR.
13	"(a) Establishment of Position.—There is estab-
14	lished the position of the Director of the Federal Housing
15	Finance Agency, who shall be the head of the Agency.
16	"(b) Appointment; Term.—
17	"(1) Appointment.—The Director shall be ap-
18	pointed by the President, by and with the advice and
19	consent of the Senate, from among individuals who
20	are citizens of the United States, have a dem-
21	onstrated understanding of financial management or
22	oversight, and have a demonstrated understanding
23	of capital markets, including the mortgage securities



markets and housing finance.

1	"(2) TERM.—The Director shall be appointed
2	for a term of 5 years.
3	"(3) Vacancy.—A vacancy in the position of
4	Director that occurs before the expiration of the
5	term for which a Director was appointed shall be
6	filled in the manner established under paragraph
7	(1), and the Director appointed to fill such vacancy
8	shall be appointed only for the remainder of such
9	term.
10	"(4) Service after end of term.—An indi-
11	vidual may serve as the Director after the expiration
12	of the term for which appointed until a successor
13	has been appointed.
14	"(5) Transitional Provision.—Notwith-
15	standing paragraphs (1) and (2), the person serving
16	as the Director of the Office of Federal Housing En-
17	terprise Oversight of the Department of Housing
18	and Urban Development on the effective date under
19	section 184 of the Federal Housing Finance Reform
20	Act of 2005, shall serve as the Director until a suc-
21	cessor has been appointed under paragraph (1).
22	"(c) Deputy Director of the Division of En-
23	TERPRISE REGULATION.—
24	"(1) IN GENERAL.—The Agency shall have a
25	Deputy Director of the Division of Enterprise Regu-



1	lation, who shall be designated by the Director from
2	among individuals who are citizens of the United
3	States, have a demonstrated understanding of finan-
4	cial management or oversight, and have a dem-
5	onstrated understanding of mortgage securities mar-
6	kets and housing finance.
7	"(2) Functions.—The Deputy Director of the
8	Division of Enterprise Regulation shall have such
9	functions, powers, and duties with respect to the
10	oversight of the enterprises as the Director shall pre-
11	scribe.
12	"(d) Deputy Director of the Division of Fed-
13	ERAL HOME LOAN BANK REGULATION.—
14	"(1) In general.—The Agency shall have a
15	Deputy Director of the Division of Federal Home
16	Loan Bank Regulation, who shall be designated by
17	the Director from among individuals who are citi-
18	zens of the United States, have a demonstrated un-
19	derstanding of financial management or oversight,
20	and have a demonstrated understanding of the Fed-
21	eral Home Loan Bank System and housing finance.
22	"(2) Functions.—The Deputy Director of the
23	Division of Federal Home Loan Bank Regulation

shall have such functions, powers, and duties with



1	respect to the oversight of the Federal home loan
2	banks as the Director shall prescribe.
3	"(e) Deputy Director for Housing.—
4	"(1) In general.—The Agency shall have a
5	Deputy Director for Housing, who shall be des-
6	ignated by the Director from among individuals who
7	are citizens of the United States, and have a dem-
8	onstrated understanding of the housing markets and
9	housing finance.
10	"(2) Functions.—The Deputy Director for
11	Housing shall have such functions, powers, and du-
12	ties with respect to the oversight of the housing mis-
13	sion and goals of the enterprises as the Director
14	shall prescribe.
15	"(f) ACTING DIRECTOR.—In the event of the death
16	resignation, sickness, or absence of the Director, the
17	Board shall, by a majority vote, designate either the Dep-
18	uty Director of the Division of Enterprise Regulation, the
19	Deputy Director of the Division of Federal Home Loan
20	Bank Regulation, or the Deputy Director for Housing, to
21	serve as acting Director until the return of the Director,
22	or the appointment of a successor pursuant to subsection
23	(b).
24	"(g) Limitations.—The Director and each of the



25 Deputy Directors may not—

1	"(1) have any direct or indirect financial inter-
2	est in any regulated entity or regulated entity-affili-
3	ated party;
4	"(2) hold any office, position, or employment in
5	any regulated entity or regulated entity-affiliated
6	party; or
7	"(3) have served as an executive officer or di-
8	rector of any regulated entity, or regulated entity-af-
9	filiated party, at any time during the 3-year period
10	ending on the date of appointment of such individual
11	as Director or Deputy Director.".
12	SEC. 102. DUTIES AND AUTHORITIES OF DIRECTOR.
13	(a) In General.—The Housing and Community De-
14	velopment Act of 1992 (12 U.S.C. 4513) is amended by
15	striking section 1313 and inserting the following new sec-
16	tions:
17	"SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.
18	"(a) Duties.—
19	"(1) Principal duties.—The principal duties
20	of the Director shall be—
21	"(A) to oversee the prudential operations
22	of each regulated entity, on a consolidated
23	basis; and
24	"(B) to ensure that—



1	"(i) each regulated entity operates in
2	a safe and sound manner, including main-
3	tenance of adequate capital and internal
4	controls;
5	"(ii) the operations and activities of
6	each regulated entity foster liquid, effi-
7	cient, competitive, and resilient national
8	housing finance markets (including activi-
9	ties relating to mortgages on housing for
10	low- and moderate- income families involv-
11	ing a reasonable economic return that may
12	be less than the return earned on other ac-
13	tivities);
14	"(iii) each regulated entity complies
15	with this title and the rules, regulations,
16	guidelines, and orders issued under this
17	title and the authorizing statutes; and
18	"(iv) each regulated entity carries out
19	its statutory mission only through activi-
20	ties that are consistent with this title and
21	the authorizing statutes.
22	"(2) Scope of Authority.—The authority of
23	the Director shall include the authority—
24	"(A) to review and, if warranted based on
25	the principal duties described in paragraph (1),



1	reject any acquisition or transfer of a control-
2	ling interest in an enterprise; and
3	"(B) to exercise such incidental powers as
4	may be necessary or appropriate to fulfill the
5	duties and responsibilities of the Director in the
6	supervision and regulation of each regulated en-
7	tity.
8	"(b) Delegation of Authority.—The Director
9	may delegate to officers and employees of the Agency any
10	of the functions, powers, or duties of the Director, as the
11	Director considers appropriate.
12	"(c) LITIGATION AUTHORITY.—
13	"(1) In general.—In enforcing any provision
14	of this title, any regulation or order prescribed under
15	this title, or any other provision of law, rule, regula-
16	tion, or order, or in any other action, suit, or pro-
17	ceeding to which the Director is a party or in which
18	the Director is interested, and in the administration
19	of conservatorships and receiverships, the Director
20	may act in the Director's own name and through the
21	Director's own attorneys.
22	"(2) Subject to suit.—Except as otherwise
23	provided by law, the Director shall be subject to suit
24	(other than suits on claims for money damages) by

a regulated entity or director or officer thereof with



1	respect to any matter under this title or any other
2	applicable provision of law, rule, order, or regulation
3	under this title, in the United States district court
4	for the judicial district in which the regulated entity
5	has its principal place of business, or in the United
6	States District Court for the District of Columbia,
7	and the Director may be served with process in the
8	manner prescribed by the Federal Rules of Civil
9	Procedure.
10	"SEC. 1313A. PRUDENTIAL MANAGEMENT AND OPERATIONS
11	STANDARDS.
12	"(a) Standards.—The Director shall establish
13	standards, by regulation, guideline, or order, for each reg-
14	ulated entity relating to—
15	"(1) adequacy of internal controls and informa-
16	tion systems taking into account the nature and
17	scale of business operations;
18	"(2) independence and adequacy of internal
19	audit systems;
20	"(3) management of credit and counterparty
21	risk, including systems to identify concentrations of
22	credit risk and prudential limits to restrict exposure
23	of the regulated entity to a single counterparty or

"(4) management of interest rate risk exposure;



1	"(5) management of market risk, including
2	standards that provide for systems that accurately
3	measure, monitor, and control market risks and, as
4	warranted, that establish limitations on market risk;
5	"(6) adequacy and maintenance of liquidity and
6	reserves;
7	"(7) management of any asset and investment
8	portfolio;
9	"(8) investments and acquisitions by a regu-
10	lated entity, to ensure that they are consistent with
11	the purposes of this Act and the Federal National
12	Mortgage Association Charter Act, the Federal
13	Home Loan Mortgage Corporation Act, or the Fed-
14	eral Home Loan Bank Act, as appropriate;
15	"(9) maintenance of adequate records, in ac-
16	cordance with consistent accounting policies and
17	practices that enable the Director to evaluate the fi-
18	nancial condition of the regulated entity;
19	"(10) issuance of subordinated debt by that
20	particular regulated entity, as the Director considers
21	necessary;
22	"(11) overall risk management processes, in-
23	cluding adequacy of oversight by senior management
24	and the board of directors and of processes and poli-

cies to identify, measure, monitor, and control mate-



1	rial risks, including reputational risks, and for ade-
2	quate, well-tested business resumption plans for all
3	major systems with remote site facilities to protect
4	against disruptive events; and
5	"(12) such other operational and management
6	standards as the Director determines to be appro-
7	priate.
8	"(b) Failure to Meet Standards.—
9	"(1) Plan requirement.—
10	"(A) IN GENERAL.—If the Director deter-
11	mines that a regulated entity fails to meet any
12	standard established under subsection (a)—
13	"(i) if such standard is established by
14	regulation, the Director shall require the
15	regulated entity to submit an acceptable
16	plan to the Director within the time al-
17	lowed under subparagraph (C); and
18	"(ii) if such standard is established by
19	guideline, the Director may require the
20	regulated entity to submit a plan described
21	in clause (i).
22	"(B) Contents.—Any plan required
23	under subparagraph (A) shall specify the ac-
24	tions that the regulated entity will take to cor-
25	rect the deficiency. If the regulated entity is



1	undercapitalized, the plan may be a part of the
2	capital restoration plan for the regulated entity
3	under section 1369C.
4	"(C) Deadlines for submission and
5	REVIEW.—The Director shall by regulation es-
6	tablish deadlines that—
7	"(i) provide the regulated entities with
8	reasonable time to submit plans required
9	under subparagraph (A), and generally re-
10	quire a regulated entity to submit a plan
11	not later than 30 days after the Director
12	determines that the entity fails to meet
13	any standard established under subsection
14	(a); and
15	"(ii) require the Director to act on
16	plans expeditiously, and generally not later
17	than 30 days after the plan is submitted.
18	"(2) Required order upon failure to sub-
19	MIT OR IMPLEMENT PLAN.—If a regulated entity
20	fails to submit an acceptable plan within the time al-
21	lowed under paragraph (1)(C), or fails in any mate-
22	rial respect to implement a plan accepted by the Di-
23	rector the following shall apply:



1	"(A) REQUIRED CORRECTION OF DEFI-
2	CIENCY.—The Director shall, by order, require
3	the regulated entity to correct the deficiency.
4	"(B) OTHER AUTHORITY.—The Director
5	may, by order, take one or more of the fol-
6	lowing actions until the deficiency is corrected:
7	"(i) Prohibit the regulated entity from
8	permitting its average total assets (as such
9	term is defined in section 1316(b)) during
10	any calendar quarter to exceed its average
11	total assets during the preceding calendar
12	quarter, or restrict the rate at which the
13	average total assets of the entity may in-
14	crease from one calendar quarter to an-
15	other.
16	"(ii) Require the regulated entity—
17	"(I) in the case of an enterprise,
18	to increase its ratio of core capital to
19	assets.
20	"(II) in the case of a Federal
21	home loan bank, to increase its ratio
22	of total capital (as such term is de-
23	fined in section 6(a)(5) of the Federal
24	Home Loan Bank Act (12 U.S.C.
25	1426(a)(5)) to assets.



1	"(iii) Require the regulated entity to
2	take any other action that the Director de-
3	termines will better carry out the purposes
4	of subtitle C than any of the actions de-
5	scribed in this subparagraph
6	"(3) Mandatory restrictions.—In com-
7	plying with paragraph (2), the Director shall take
8	one or more of the actions described in clauses (i)
9	through (iii) of paragraph (2)(B) if—
10	"(A) the Director determines that the reg-
11	ulated entity fails to meet any standard pre-
12	scribed under subsection (a);
13	"(B) the regulated entity has not corrected
14	the deficiency; and
15	"(C) during the 18-month period before
16	the date on which the regulated entity first
17	failed to meet the standard, the entity under-
18	went extraordinary growth, as defined by the
19	Director.
20	"(c) Other Enforcement Authority not Af-
21	FECTED.—The authority of the Director under this sec-
22	tion is in addition to any other authority of the Director.".
23	(b) Independence in Congressional Testimony
24	AND RECOMMENDATIONS.—Section 111 of Public Law
25	93–495 (12 U.S.C. 250) is amended by striking "the Fed-



- 1 eral Housing Finance Board" and inserting "the Director
- 2 of the Federal Housing Finance Agency".
- 3 SEC. 103. HOUSING FINANCE OVERSIGHT BOARD.
- 4 (a) IN GENERAL.—Title XIII of the Housing and
- 5 Community Development Act of 1992 (12 U.S.C. 4501 et
- 6 seq.) is amended by inserting after section 1313A, as
- 7 added by section 102 of this Act, the following new sec-
- 8 tion:
- 9 "SEC. 1313B. HOUSING FINANCE OVERSIGHT BOARD.
- 10 "(a) IN GENERAL.—There is established the Housing
- 11 Finance Oversight Board.
- 12 "(b) Duties.—The Board shall advise the Director
- 13 with respect to overall strategies and policies in carrying
- 14 out the duties of the Director under this title. Except as
- 15 otherwise provided under this Act, the Board shall not ex-
- 16 ercise any executive authority.
- 17 "(c) Composition.—The Board shall be comprised
- 18 of 5 members, as follows:
- "(1) One member shall be the Director, who
- shall serve as the Chairperson of the Board.
- 21 "(2) One member shall be the Secretary of the
- Treasury or the designee of the Secretary.
- 23 "(3) One member shall be the Secretary of
- Housing and Urban Development or the designee of
- 25 the Secretary.



1	"(4) Two members shall be appointed by the
2	President, by and with the advice and consent of the
3	Senate, who shall include—
4	"(A) one individual who has extensive ex-
5	perience and expertise in the capital markets
6	(including debt markets), the secondary mort-
7	gage market, and mortgage-backed securities;
8	and
9	"(B) one individual who has extensive ex-
10	perience and expertise in mortgage finance (in-
11	cluding single family and multifamily housing
12	mortgage finance), development of affordable
13	housing, and economic development and revital-
14	ization.
15	"(d) Full-Time Members and Staff.—
16	"(1) Full-time members.—The members of
17	the Board pursuant to subsection (c)(4) shall serve
18	on a full-time basis.
19	"(2) Staff.—The Board may appoint and fix
20	the compensation of such staff as the Board con-
21	siders necessary to carry out the functions of the
22	Board.
23	"(e) Meetings.—
24	"(1) IN GENERAL.—The Board shall meet upon
25	notice by the Director, but in no event shall the



1	Board meet less frequently than once every 3
2	months.
3	"(2) Special meetings.—Any member of the
4	Board may, upon giving written notice to the Direc-
5	tor, require a special meeting of the Board, which
6	shall be convened by the Director within 30 days
7	after such notice.
8	"(f) Testimony.—On an annual basis, the Board
9	shall testify before Congress regarding—
10	"(1) the safety and soundness of the regulated
11	entities;
12	"(2) any material deficiencies in the conduct of
13	the operations of the regulated entities;
14	"(3) the overall operational status of the regu-
15	lated entities;
16	"(4) an evaluation of the performance of the
17	regulated entities in carrying out their respective
18	missions;
19	"(5) operations, resources, and performance of
20	the Agency and the Board; and
21	"(6) such other matters relating to the Agency,
22	the Board, and the regulated entities, and their ful-
23	fillment of their missions, as the Board determines
24	appropriate.



1	"(g) Costs.—Costs of the Board, including staff,
2	shall be paid by the Agency as a cost and expense of the
3	Agency.".
4	(b) Annual Report of the Director.—Section
5	1319B(a) of the Housing and Community Development
6	Act of 1992 (12 U.S.C. 4521 (a)) is amended—
7	(1) in paragraph (3), by striking "and" at the
8	end; and
9	(2) by striking paragraph (4) and inserting the
10	following new paragraphs:
11	"(4) an assessment of the Board with respect
12	to—
13	"(A) the safety and soundness of the regu-
14	lated entities;
15	"(B) any material deficiencies in the con-
16	duct of the operations of the regulated entities;
17	"(C) the overall operational status of the
18	regulated entities;
19	"(D) an evaluation of the performance of
20	the regulated entities in carrying out their mis-
21	sions, including compliance of the enterprises
22	with the housing goals under subpart B of part
23	2 of this subtitle and compliance of the Federal
24	home loan banks with the community invest-
25	ment and affordable housing programs under



1	subsections (i) and (j) of section 10 of the Fed-
2	eral Home Loan Bank Act;
3	"(E) an evaluation of the performance of
4	the Agency in fulfilling its duties and respon-
5	sibilities under law; and
6	"(F) such other matters relating to the
7	Board and the fulfillment of its duties as the
8	Board considers appropriate;
9	"(5) operations, resources, and performance of
10	the Agency; and
11	"(6) such other matters relating to the Agency
12	and its fulfillment of its mission.".
13	SEC. 104. AUTHORITY TO REQUIRE REPORTS BY REGU-
14	LATED ENTITIES.
14	
15	Section 1314 of the Housing and Community Devel-
	Section 1314 of the Housing and Community Development Act of 1992 (12 U.S.C. 4514) is amended—
15	·
15 16	opment Act of 1992 (12 U.S.C. 4514) is amended—
15 16 17	opment Act of 1992 (12 U.S.C. 4514) is amended— (1) in the section heading, by striking "ENTER-
15 16 17 18	opment Act of 1992 (12 U.S.C. 4514) is amended— (1) in the section heading, by striking "ENTER-PRISES" and inserting "REGULATED ENTITIES";
15 16 17 18 19	opment Act of 1992 (12 U.S.C. 4514) is amended— (1) in the section heading, by striking "ENTER- PRISES" and inserting "REGULATED ENTITIES"; and
15 16 17 18 19 20	opment Act of 1992 (12 U.S.C. 4514) is amended— (1) in the section heading, by striking "ENTER-PRISES" and inserting "REGULATED ENTITIES"; and (2) in subsection (a)—
15 16 17 18 19 20 21	opment Act of 1992 (12 U.S.C. 4514) is amended— (1) in the section heading, by striking "ENTER-PRISES" and inserting "REGULATED ENTITIES"; and (2) in subsection (a)— (A) in the subsection heading, by striking
15 16 17 18 19 20 21 22	opment Act of 1992 (12 U.S.C. 4514) is amended— (1) in the section heading, by striking "ENTER-PRISES" and inserting "REGULATED ENTITIES"; and (2) in subsection (a)— (A) in the subsection heading, by striking "SPECIAL REPORTS AND REPORTS OF FINAN-



1	(i) in the paragraph heading, by strik-
2	ing "FINANCIAL CONDITION" and inserting
3	"REGULAR REPORTS"; and
4	(ii) by striking "reports of financial
5	condition and operations" and inserting
6	"regular reports on the condition (includ-
7	ing financial condition), management, ac-
8	tivities, or operations of the regulated enti-
9	ty, as the Director considers appropriate";
10	and
11	(C) in paragraph (2), after "submit special
12	reports" insert "on any of the topics specified
13	in paragraph (1) or such other topics".
14	SEC. 105. ASSESSMENTS.
15	Section 1316 of the Housing and Community Devel-
16	opment Act of 1992 (12 U.S.C. 4516) is amended—
17	(1) by striking subsection (a) and inserting the
18	following new subsection:
19	"(a) Annual Assessments.—The Director shall es-
20	tablish and collect from the regulated entities annual as-
21	sessments in an amount not exceeding the amount suffi-
22	cient to provide for reasonable costs and expenses of the
23	Agency including—



1	"(1) the expenses of any examinations under
2	section 1317 of this Act and under section 20 of the
3	Federal Home Loan Bank Act;
4	"(2) the expenses of obtaining any reviews and
5	credit assessments under section 1319; and
6	"(3) such amounts in excess of actual expenses
7	for any given year as deemed necessary by the Di-
8	rector to maintain a working capital fund in accord-
9	ance with subsection (e).";
10	(2) in subsection (b)—
11	(A) in the subsection heading, by striking
12	"Enterprises" and inserting "Regulated
13	ENTITIES";
14	(B) by realigning paragraph (2) two ems
15	from the left margin, so as to align the left
16	margin of such paragraph with the left margins
17	of paragraph (1);
18	(C) in paragraph (1)—
19	(i) by striking "Each enterprise" and
20	inserting "Each regulated entity";
21	(ii) by striking "each enterprise" and
22	inserting "each regulated entity"; and
23	(iii) by striking "both enterprises"
24	and inserting "all of the regulated enti-
25	ties"; and



1	(D) in paragraph (3)——
2	(i) in subparagraph (B), by striking
3	"subparagraph (A)" and inserting "clause
4	(i)";
5	(ii) by redesignating subparagraphs
6	(A), (B), and (C) as clauses (i), (ii) and
7	(ii), respectively, and realigning such
8	clauses, as so redesignated, so as to be in-
9	dented 6 ems from the left margin;
10	(iii) by striking the matter that pre-
11	cedes clause (i), as so redesignated, and in-
12	serting the following:
13	"(3) Definition of total assets.—For pur-
14	poses of this section, the term 'total assets' means
15	as follows:
16	"(A) Enterprises.—With respect to an
17	enterprise, the sum of—'; and
18	(iv) by adding at the end the following
19	new subparagraph:
20	"(B) Federal Home Loan Banks.—With
21	respect to a Federal home loan bank, the total
22	assets of the Bank, as determined by the Direc-
23	tor in accordance with generally accepted ac-
24	counting principles.".



1	(3) in subsection (c), by inserting after the pe-
2	riod at the end the following: "The Director may ad-
3	just the amounts of any semiannual assessments for
4	an assessment under subsection (a) that are to be
5	paid pursuant to subsection (b) by a regulated enti-
6	ty, as necessary in the discretion of the Director, to
7	ensure that the costs of enforcement activities under
8	subtitles B and C for a regulated entity are borne
9	only by that entity.";
10	(4) in subsection (d), by striking "If" and in-
11	serting "Except with respect to amounts collected
12	pursuant to subsection (a)(3), if"; and
13	(5) by striking subsections (e) through (g) and
14	inserting the following new subsections:
15	"(e) Working Capital Fund.—At the end of each
16	year for which an assessment under this section is made
17	the Director shall remit to each regulated entity any
18	amount of assessment collected from such regulated entity
19	that is attributable to subsection (a)(3) and is in excess
20	of the amount the Director deems necessary to maintain
21	a working capital fund.
22	"(f) Treatment of Assessments.—
23	"(1) Deposit.—Amounts received by the Di-
24	rector from assessments under this section may be

deposited in the manner provided in section 5234 of



1 the Revised Statutes (12 U.S.C. 192) with respect 2 to assessments by the Comptroller of the Currency. 3 "(2) Not government funds.—The amounts 4 received by the Director from any assessment under 5 this section shall not be construed to be Government 6 or public funds or appropriated money. 7 "(3) No apportionment of funds.—Not-8 withstanding any other provision of law, the 9 amounts received by the Director from any assess-10 ment under this section shall not be subject to ap-11 portionment for the purpose of chapter 15 of title 12 31, United States Code, or under any other author-13 ity. 14 "(4) Use of funds.—The Director may use any amounts received by the Director from assess-15 16 ments under this section for compensation of the Di-17 rector and other employees of the Agency and for all 18 other expenses of the Director and the Agency. 19 "(5) AVAILABILITY OF**OVERSIGHT FUND** 20 AMOUNTS.—Notwithstanding any other provision of 21 law, any amounts remaining in the Federal Housing 22 Enterprises Oversight Fund established under this 23 section (as in effect before the effective date under 24 section 184 of the Federal Housing Finance Reform

Act of 2005), and any amounts remaining from as-



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1	sessments on the Federal Home Loan banks pursu-
2	ant to section 18(b) of the Federal Home Loan
3	Bank Act (12 U.S.C. 1438(b)), shall, upon such ef-
4	fective date, be treated for purposes of this sub-
5	section as amounts received from assessments under
6	this section.
7	"(g) BUDGET AND FINANCIAL REPORTS.—
8	"(1) Financial operating plans and fore-

"(1) Financial operating plans and forecasts.—The Director shall provide to the Director of the Office of Management and Budget copies of the Director's financial operating plans and forecasts as prepared by the Director in the ordinary course of the Agency's operations, and copies of the quarterly reports of the Agency's financial condition and results of operations as prepared by the Director in the ordinary course of the Agency's operations.

"(2) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any reports, plans, forecasts, or other information referred to in paragraph (1) or any jurisdiction or



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oversight over the affairs or operations of the Agency.

"(h) Audit of Agency.—

"(1) In General.—The financial transactions of the Agency shall be audited by the Government Accountability Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Agency are normally kept. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Agency pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Agency shall remain in possession and custody of the Agency. The Agency shall be audited at least once in every three years.



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1	"(2) Report.—A report of each audit con-
2	ducted under this subsection shall be made by the
3	Comptroller General to the Congress not later than
4	six and one-half months following the close of the
5	last year covered by such audit. The report to the
6	Congress shall set forth the scope of the audit and
7	shall include a statement of assets and liabilities and
8	surplus or deficit; a statement of surplus or deficit
9	analysis; a statement of income and expenses; a
10	statement of sources and application of funds and
11	such comments and information as may be deemed
12	necessary to inform Congress of the financial oper-
13	ations and condition of the Agency, together with
14	such recommendations with respect thereto as the
15	Comptroller General may deem advisable. The report
16	shall also show specifically any program, expendi-
17	ture, or other financial transaction or undertaking
18	observed in the course of the audit, which, in the
19	opinion of the Comptroller General, has been carried
20	on or made without authority of law. A copy of each
21	report shall be furnished to the President and to the
22	Agency at the time submitted to the Congress.
23	"(3) Assistance and costs.—For the purpose
24	of conducting an audit under this subsection, the

Comptroller General may, in the discretion of the



1	Comptroller General, employ by contract, without re-
2	gard to section 5 of title 41, professional services of
3	firms and organizations of certified public account-
4	ants, with the concurrence of the Agency, for tem-
5	porary periods or for special purposes. The Agency
6	shall reimburse the Government Accountability Of-
7	fice for the cost of any such audit as billed therefor
8	by the Comptroller General, and the Government
9	Accountability Office shall deposit the sums so reim-
10	bursed into the Treasury as miscellaneous receipts.".
11	SEC. 106. EXAMINERS AND ACCOUNTANTS.
12	(a) Examinations.—Section 1317 of the Housing
13	and Community Development Act of 1992 (12 U.S.C.
14	4517) is amended——
15	(1) in subsection (b)—
16	(A) by inserting "of a regulated entity"
17	after "under this section"; and
18	(B) by striking "to determine the condition
19	of an enterprise for the purpose of ensuring its
20	financial safety and soundness" and inserting
21	"or appropriate"; and
22	(2) in subsection (c)—
23	(A) in the second sentence—
24	(i) by striking "The" and inserting
25	"During the 3-year period that begins



1	upon the date of the enactment of the Fed-
2	eral Housing Finance Reform Act of 2005,
3	the"; and
4	(ii) by inserting "to conduct examina-
5	tions under this section" before the period;
6	and
7	(B) in the third sentence, by striking
8	"from amounts available in the Federal Hous-
9	ing Enterprises Oversight Fund".
10	(b) Enhanced Authority to Hire Examiners
11	AND ACCOUNTANTS.—Section 1317 of the Housing and
12	Community Development Act of 1992 (12 U.S.C. 4517)
13	is amended by adding at the end the following new sub-
14	section:
15	"(g) Appointment of Accountants, Economists,
16	AND EXAMINERS.—
17	"(1) Applicability.—This section applies with
18	respect to any position of examiner, accountant, and
19	economist at the Agency, with respect to supervision
20	and regulation of the regulated entities, that is in
21	the competitive service.
22	"(2) Appointment authority.—The Director
23	may appoint candidates to any position described in
24	naraoranh (1)—



1	"(A) in accordance with the statutes, rules,
2	and regulations governing appointments in the
3	excepted service; and
4	"(B) notwithstanding any statutes, rules,
5	and regulations governing appointments in the
6	competitive service.".
7	(c) Repeal.—Section 20 of the Federal Home Loan
8	Bank Act (12 U.S.C. 1440) is amended—
9	(1) in the section heading, by striking "RE-
10	PORTS" and inserting "GAO AUDITS";
11	(2) in the third sentence, by striking "the
12	Board and" each place such term appears; and
13	(3) by striking the first two sentences and in-
14	serting the following: "The Federal home loan banks
15	shall be subject to examinations by the Director to
16	the extent provided in section 1317 of the Federal
17	Housing Enterprises Financial Safety and Sound-
18	ness Act of 1992 (12 U.S.C. 4517)." .
19	(d) Effective Date.—This section and the amend-
20	ments made by this section shall take effect on the date
21	of the enactment of this Act.



1	SEC. 107. PROHIBITION AND WITHHOLDING OF EXECUTIVE
2	COMPENSATION.
3	(a) In General.—Section 1318 of the Housing and
4	Community Development Act of 1992 (12 U.S.C. 4518)
5	is amended—
6	(1) in the section heading, by striking "OF EX-
7	CESSIVE" and inserting "AND WITHHOLDING OF
8	EXECUTIVE";
9	(2) by redesignating subsection (b) as sub-
10	section (d); and
11	(3) by inserting after subsection (a) the fol-
12	lowing new subsections:
13	"(b) Factors.—In making any determination under
14	subsection (a), the Director may take into consideration
15	any factors the Director considers relevant, including any
16	wrongdoing on the part of the executive officer, and such
17	wrongdoing shall include any fraudulent act or omission,
18	breach of trust or fiduciary duty, violation of law, rule,
19	regulation, order, or written agreement, and insider abuse
20	with respect to the regulated entity.
21	"(c) Withholding of Compensation.—In car-
22	rying out subsection (a), the Director may require a regu-
23	lated entity to withhold any payment, transfer, or dis-
24	bursement of compensation to an executive officer, or to
25	place such compensation in an escrow account, during the



- 1 review of the reasonableness and comparability of com-2 pensation.".
- 3 (b) Conforming Amendments.—
- 4 (1) Fannie Mae.—Section 309(d) of the Fed-
- 5 eral National Mortgage Association Charter Act (12
- 6 U.S.C. 1723a(d)) is amended by adding at the end
- 7 the following new paragraph:
- 8 "(4) The corporation shall not transfer, disburse, or
- 9 pay compensation to any executive officer, or enter into
- 10 an agreement with such executive officer, without the ap-
- 11 proval of the Director, for matters being reviewed under
- 12 section 1318 of the Federal Housing Enterprises Finan-
- 13 cial Safety and Soundness Act of 1992 (12 U.S.C.
- 14 4518).".
- 15 (2) Freddie Mac.—Section 303(h) of the Fed-
- eral Home Loan Mortgage Corporation Act (12
- U.S.C. 1452(h)) is amended by adding at the end
- the following new paragraph:
- 19 "(4) The Corporation shall not transfer, disburse, or
- 20 pay compensation to any executive officer, or enter into
- 21 an agreement with such executive officer, without the ap-
- 22 proval of the Director, for matters being reviewed under
- 23 section 1318 of the Federal Housing Enterprises Finan-
- 24 cial Safety and Soundness Act of 1992 (12 U.S.C.
- 25 4518).".



1	(3) Federal Home Loan Banks.—Section 7
2	of the Federal Home Loan Bank Act (12 U.S.C.
3	1427) is amended by adding at the end the following
4	new subsection:
5	"(l) Director's Approval of Compensation.—
6	Notwithstanding any other provision of this section, a
7	Federal home loan bank shall not transfer, disburse, or
8	pay compensation to any executive officer, or enter into
9	an agreement with such executive officer, without the ap-
10	proval of the Director, for matters being reviewed under
11	section 1318 of the Federal Housing Enterprises Finan-
12	cial Safety and Soundness Act of 1992 (12 U.S.C.
13	4518).".
14	SEC. 108. REVIEWS OF REGULATED ENTITIES.
15	Section 1319 of the Housing and Community Devel-
16	opment Act of 1992 (12 U.S.C. 4519) is amended—
17	(1) by striking the section designation and
18	heading and inserting the following:
19	"SEC. 1319. REVIEWS OF REGULATED ENTITIES."; and
20	(2) by inserting after "any entity" the fol-
21	lowing: "that the Director considers appropriate, in-
22	cluding an entity".
23	SEC. 109. REGULATIONS AND ORDERS.
24	Section 1319G of the Housing and Community De-

25 velopment Act of 1992 (12 U.S.C. 4526) is amended—



1	(1) by striking subsection (a) and inserting the
2	following new subsection:
3	"(a) Authority.—The Director shall issue any reg-
4	ulations, guidelines, and orders necessary to carry out the
5	duties of the Director under this title, the Federal Na-
6	tional Mortgage Association Charter Act, the Federal
7	Home Loan Mortgage Corporation Act, and the Federal
8	Home Loan Bank Act to ensure that the purposes of this
9	title and such Acts are accomplished."; and
10	(2) by striking subsection (c).
11	SEC. 110. RISK-BASED CAPITAL REQUIREMENTS.
12	(a) In General.—Section 1361 of the Housing and
13	Community Development Act of 1992 (12 U.S.C. 4611)
14	is amended to read as follows:
15	"SEC. 1361. RISK-BASED CAPITAL LEVELS FOR REGULATED
16	ENTITIES.
17	"(a) In General.—
18	"(1) Enterprises.—The Director shall, by
19	regulation, establish risk-based capital requirements
20	for the enterprises to ensure that the enterprises op-
21	erate in a safe and sound manner, maintaining suffi-
22	cient capital and reserves to support the risks that
23	arise in the operations and management of the en-



1	"(2) Federal Home Loan Banks.—The Di-
2	rector shall establish risk-based capital standards
3	under section 6 of the Federal Home Loan Bank
4	Act for the Federal home loan banks.
5	"(b) Required Registration Under the Securi-
6	TIES EXCHANGE ACT OF 1934.—
7	"(1) In General.—Each regulated entity shall
8	register at least one class of the capital stock of
9	such regulated entity, and maintain such registra-
10	tion with the Securities and Exchange Commission,
11	under the Securities Exchange Act of 1934.
12	"(2) Enterprises.—Each enterprise shall
13	comply with sections 14 and 16 of the Securities Ex-
14	change Act of 1934.
15	"(c) No Limitation.—Nothing in this section shall
16	limit the authority of the Director to require other reports
17	or undertakings, or take other action, in furtherance of
18	the responsibilities of the Director under this Act.".
19	(b) Federal Home Loan Banks Risk-Based Cap-
20	ITAL.—Section 6(a)(3) of the Federal Home Loan Bank
21	Act (12 U.S.C. 1426(a)(3)) is amended——
22	(1) by striking subparagraph (A) and inserting
23	the following new subparagraph:
24	"(A) RISK-BASED CAPITAL STANDARDS.—
25	The Director shall, by regulation, establish risk-



1	based capital standards for the Federal home
2	loan banks to ensure that the Federal home
3	loan banks operate in a safe and sound manner,
4	with sufficient permanent capital and reserves
5	to support the risks that arise in the operations
6	and management of the Federal home loans
7	banks."; and
8	(2) in subparagraph (B), by striking "(A)(ii)"
9	and inserting "(A)".
10	SEC. 111. MINIMUM AND CRITICAL CAPITAL LEVELS.
11	(a) MINIMUM CAPITAL LEVEL.—Section 1362 of the
12	Housing and Community Development Act of 1992 (12
13	U.S.C. 4612) is amended—
14	(1) in subsection (a), by striking the subsection
15	heading and inserting "Enterprises"; and
16	(2) by striking subsection (b) and inserting the
17	following new subsections:
18	"(b) Federal Home Loan Banks.—For purposes
19	of this subtitle, the minimum capital level for each Federal
20	home loan bank shall be the minimum capital required to
21	be maintained to comply with the leverage requirement for
22	the bank established under section $6(a)(2)$ of the Federal
23	Home Loan Bank Act (12 U.S.C. 1426(a)(2)).
24	"(c) Regulatory Discretion to Increase
25	LEVEL.—Notwithstanding subsections (a) and (b), the Di-



- 1 rector may, by regulations issued under section 1319G(b),
- 2 establish a minimum capital level that is higher than the
- 3 level specified in subsection (a) for an enterprise or the
- 4 level specified in subsection (b) for a Federal home loan
- 5 bank.
- 6 "(d) Authority to Require Temporary In-
- 7 CREASE.—Notwithstanding subsections (a) and (b) and
- 8 any minimum capital level established pursuant to sub-
- 9 section (c), the Director may, by order, increase the min-
- 10 imum capital level for a regulated entity for such period
- 11 as the Director may provide if the Director—
- 12 "(1) makes any of the determinations specified
- in subparagraphs (A) through (C) of section
- 14 1364(c)(1); or
- 15 "(2) determines that the regulated entity has
- violated any of the prudential management and op-
- erations standards established pursuant to section
- 18 1313A and, as a result of such violation, is oper-
- ating in an unsafe and unsound manner.
- 20 "(e) Authority to Establish Additional Cap-
- 21 ITAL AND RESERVE REQUIREMENTS FOR PARTICULAR
- 22 Programs.—The Director may, at any time by order or
- 23 regulation, establish such capital or reserve requirements
- 24 with respect to any program or activity of a regulated enti-
- 25 ty as the Director considers appropriate to ensure that



1	the regulated entity operates in a safe and sound manner,
2	with sufficient capital and reserves to support the risks
3	that arise in the operations and management of the regu-
4	lated entity.".
5	(b) Critical Capital Levels.—
6	(1) In general.—Section 1363 of the Housing
7	and Community Development Act of 1992 (12
8	U.S.C. 4613) is amended—
9	(A) by striking "For" and inserting "(a)
10	Enterprises.—For'; and
11	(B) by adding at the end the following new
12	subsection:
13	"(b) Federal Home Loan Banks.—
14	"(1) In general.—For purposes of this sub-
15	title, the critical capital level for each Federal home
16	loan bank shall be such amount of capital as the Di-
17	rector shall, by regulation require.
18	"(2) Consideration of other critical cap-
19	ITAL LEVELS.—In establishing the critical capital
20	level under paragraph (1) for the Federal home loan
21	banks, the Director shall take due consideration of
22	the critical capital level established under subsection
23	(a) for the enterprises, with such modifications as
24	the Director determines to be appropriate to reflect



1	the difference in operations between the banks and
2	the enterprises.".
3	(2) Regulations.—Not later than the expira-
4	tion of the 120-day period beginning on the effective
5	date under section 184, the Director of the Federal
6	Housing Finance Agency shall issue regulations pur-
7	suant to section 1363(b) of the Housing and Com-
8	munity Development Act of 1992 (as added by para-
9	graph (1) of this subsection) establishing the critical
10	capital level under such section.
11	SEC. 112. REVIEW OF AND AUTHORITY OVER ENTERPRISE
12	ASSETS AND OBLIGATIONS.
13	Subtitle B of title XIII of the Housing and Commu-
14	nity Development Act of 1992 (12 U.S.C. 4611 et seq.)
15	is amended——
16	(1) by striking the subtitle designation and
17	heading and inserting the following:
18	"Subtitle B—Required Capital Lev-
19	els for Regulated Entities, Spe-
20	cial Enforcement Powers, and
21	Reviews of Assets and Obliga-
22	tions"; and
23	(2) by adding at the end the following new sec-
24	tion:



1	"SEC. 1369E. REVIEWS OF ENTERPRISE ASSETS AND OBLI-
2	GATIONS.
3	"(a) In General.—The Director shall conduct, on
4	a periodic basis, a review of the on-balance sheet assets
5	and off-balance sheet obligations of each enterprise.
6	"(b) Authority to Require Disposition or Ac-
7	QUISITION.—Pursuant to such a review, the Director may
8	by order require an enterprise, under such terms and con-
9	ditions as the Director determines to be appropriate, to
10	dispose of or acquire any asset or obligation, if the Direc-
11	tor determines that such action is consistent with the safe
12	and sound operation of the enterprise or with the purposes
13	of this Act, the Federal National Mortgage Association
14	Charter Act, or the Federal Home Loan Mortgage Cor-
15	poration Act.".
16	SEC. 113. CORPORATE GOVERNANCE OF ENTERPRISES.
17	The Housing and Community Development Act of
18	1992 is amended by inserting before section 1323 (12
19	U.S.C. 4543) the following new section:
20	"SEC. 1322A CORPORATE GOVERNANCE OF ENTERPRISES.
21	"(a) Board of Directors.—
22	"(1) Membership.—
23	"(A) In general.—No person may serve
24	on the board of directors of an enterprise for
25	more than 10 years or past the age of 72,

whichever comes first; except that a member of



1	a board of directors may serve his or her full
2	term if he or she has served less than 10 years
3	or is 72 years on the date of his or her election
4	or appointment to the board.
5	"(B) Waiver.—Upon the written request
6	of an enterprise, the Director may waive, in the
7	Director's sole discretion and for good cause,
8	the limits on the service of a board member
9	under subparagraph (A).
10	"(2) Independence.—A majority of seated
11	members of the board of directors of each enterprise
12	shall be independent board members, as defined
13	under rules set forth by the New York Stock Ex-
14	change, as such rules may be amended from time to
15	time.
16	"(3) Frequency of meetings.—To carry out
17	its obligations and duties under applicable laws,
18	rules, regulations, and guidelines, the board of direc-
19	tors of an enterprise shall meet at least eight times
20	a year and not less than once a calendar quarter.
21	"(4) Non-management board member
22	MEETINGS.—The non-management directors of an
23	enterprise shall meet at regularly scheduled execu-

tive sessions without management participation.



1	"(5) Quorums; prohibition on proxies.—
2	For the transaction of business, a quorum of the
3	board of directors of an enterprise shall be at least
4	a majority of the seated board of directors and a
5	board member may not vote by proxy.
6	"(6) Information.—The management of an
7	enterprise shall provide a board member of the en-
8	terprise with such adequate and appropriate infor-
9	mation that a reasonable board member would find
10	important to the fulfillment of his or her fiduciary
11	duties and obligations.
12	"(7) Annual review.—At least annually, the
13	board of directors of each enterprise shall review
14	with appropriate professional assistance, the require-
15	ments of laws, rules, regulations, and guidelines that
16	are applicable to its activities and duties.
17	"(b) Committees of Boards of Directors.—
18	"(1) Frequency of meetings.—Any com-
19	mittee of the board of directors of an enterprise
20	shall meet with sufficient frequency to carry out its
21	obligations and duties under applicable laws, rules
22	regulations, and guidelines.
23	"(2) Required committees.—Each enterprise
24	shall provide for the establishment, however styled

of the following committees of the board of directors:



1	"(A) Audit committee.
2	"(B) Compensation committee.
3	"(C) Nominating/corporate governance
4	committee.
5	Such committees shall be in compliance with the
6	charter, independence, composition, expertise, duties,
7	responsibilities, and other requirements set forth
8	under section 10A(m) of the Securities Exchange
9	Act of 1934 (15 U.S.C. 78j-1(m)), with respect to
10	the audit committee, and under rules issued by the
11	New York Stock Exchange, as such rules may be
12	amended from time to time.
13	"(c) Compensation.—
14	"(1) In general.—The compensation of board
15	members, executive officers, and employees of an
16	enterprise—
17	"(A) shall not be in excess of that which
18	is reasonable and appropriate;
19	"(B) shall be commensurate with the du-
20	ties and responsibilities of such persons,
21	"(C) shall be consistent with the long-term
22	goals of the enterprise;
23	"(D) shall not focus solely on earnings per-
24	formance, but shall take into account risk man-



1	agement, operational stability and legal and
2	regulatory compliance as well;
3	"(E) shall be undertaken in a manner that
4	complies with applicable laws, rules, and regula-
5	tions.
6	"(2) Reimbursement.—If an enterprise is re-
7	quired to prepare an accounting restatement due to
8	the material noncompliance of the enterprise, as a
9	result of misconduct, with any financial reporting re-
10	quirement under the securities laws, the chief execu-
11	tive officer and chief financial officer of the enter-
12	prise shall reimburse the enterprise as provided
13	under section 304 of the Sarbanes-Oxley Act of
14	2002 (15 U.S.C. 7243). This provision does not oth-
15	erwise limit the authority of the Agency to employ
16	remedies available to it under its enforcement au-
17	thorities.
18	"(d) Code of Conduct and Ethics.—
19	"(1) In general.—An enterprise shall estab-
20	lish and administer a written code of conduct and
21	ethics that is reasonably designed to assure the abil-
22	ity of board members, executive officers, and em-
23	ployees of the enterprise to discharge their duties
24	and responsibilities, on behalf of the enterprise, in

an objective and impartial manner, and that includes



1	standards required under section 406 of the Sar-
2	banes-Oxley Act of 2002 (15 U.S.C. 7264) and
3	other applicable laws, rules, and regulations.
4	"(2) Review.—Not less than once every three
5	years, an enterprise shall review the adequacy of its
6	code of conduct and ethics for consistency with prac-
7	tices appropriate to the enterprise and make any ap-
8	propriate revisions to such code.
9	"(e) Conduct and Responsibilities of Board of
10	DIRECTORS.—The board of directors of an enterprise shall
11	be responsible for directing the conduct and affairs of the
12	enterprise in furtherance of the safe and sound operation
13	of the enterprise and shall remain reasonably informed of
14	the condition, activities, and operations of the enterprise.
15	The responsibilities of the board of directors shall include
16	having in place adequate policies and procedures to assure
17	its oversight of, among other matters, the following:
18	"(1) Corporate strategy, major plans of action
19	risk policy, programs for legal and regulatory com-
20	pliance and corporate performance, including pru-
21	dent plans for growth and allocation of adequate re-
22	sources to manage operations risk.
23	"(2) Hiring and retention of qualified senior ex-
24	ecutive officers and succession planning for such



25

senior executive officers.

1	(3) Compensation programs of the enterprise.
2	"(4) Integrity of accounting and financial re-
3	porting systems of the enterprise, including inde-
4	pendent audits and systems of internal control.
5	"(5) Process and adequacy of reporting, disclo-
6	sures, and communications to shareholders, inves-
7	tors, and potential investors.
8	"(6) Extensions of credit to board members and
9	executive officers.
10	"(7) Responsiveness of executive officers in pro-
11	viding accurate and timely reports to Federal regu-
12	lators and in addressing the supervisory concerns of
13	Federal regulators in a timely and appropriate man-
14	ner.
15	"(f) Prohibition of Extensions of Credit.—An
16	enterprise may not directly or indirectly, including
17	through any subsidiary, extend or maintain credit, arrange
18	for the extension of credit, or renew an extension of credit,
19	in the form of a personal loan to or for any board member
20	or executive officer of the enterprise, as provided by sec-
21	tion 13(k) of the Securities Exchange Act of 1934 (15
22	U.S.C. 78m(k)).
23	"(g) Certification of Disclosures.—The chief
24	executive officer and the chief financial officer of an enter-
25	prise shall review each quarterly report and annual report



issued by the enterprise and such reports shall include cer-2 tifications by such officers as required by section 302 of 3 the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241). 4 "(h) Change of Audit Partner.—An enterprise 5 may not accept audit services from an external auditing firm if the lead or coordinating audit partner who has pri-6 7 mary responsibility for the external audit of the enterprise, 8 or the external audit partner who has responsibility for reviewing the external audit has performed audit services 10 for the enterprise in each of the five previous fiscal years. 11 "(i) COMPLIANCE PROGRAM.— 12 "(1) Requirement.—Each enterprise shall es-13 tablish and maintain a compliance program that is 14 reasonably designed to assure that the enterprise 15 complies with applicable laws, rules, regulations, and 16 internal controls. 17 "(2) Compliance officer.—The compliance 18 program of an enterprise shall be headed by a com-19 pliance officer, however styled, who reports directly 20 to the chief executive officer of the enterprise. The 21 compliance officer shall report regularly to the board 22 of directors or an appropriate committee of the 23 board of directors on compliance with and the ade-24 quacy of current compliance policies and procedures

of the enterprise, and shall recommend any adjust-



1	ments to such policies and procedures that the com-
2	pliance officer considers necessary and appropriate
3	"(j) Risk Management Program.—
4	"(1) REQUIREMENT.—Each enterprise shall es-
5	tablish and maintain a risk management program
6	that is reasonably designed to manage the risks of
7	the operations of the enterprise.
8	"(2) RISK MANAGEMENT OFFICER.—The risk
9	management program of an enterprise shall be head-
10	ed by a risk management officer, however styled
11	who reports directly to the chief executive officer of
12	the enterprise. The risk management officer shall re-
13	port regularly to the board of directors or an appro-
14	priate committee of the board of directors on compli-
15	ance with and the adequacy of current risk manage-
16	ment policies and procedures of the enterprise, and
17	shall recommend any adjustments to such policies
18	and procedures that the risk management officer
19	considers necessary and appropriate.
20	"(k) COMPLIANCE WITH OTHER LAWS.—
21	"(1) Deregistered or unregistered com-
22	MON STOCK.—If an enterprise deregisters or has not
23	registered its common stock with the Securities and
24	Exchange Commission under the Securities Ex-

change Act of 1934, the enterprise shall comply or



1	continue to comply with sections 10A(m) and 13(k)
2	of the Securities Exchange Act of 1934 (15 U.S.C.
3	78j-1(m), 78m(k)) and sections 302, 304, and 406
4	of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241,
5	7243, 7264), subject to such requirements as pro-
6	vided by subsection (l) of this section.
7	"(2) Registered common stock.—An enter-
8	prise that has its common stock registered with the
9	Securities and Exchange Commission shall maintain
10	such registered status, unless it provides 60 days
11	prior written notice to the Director stating its intent
12	to deregister and its understanding that it will re-
13	main subject to the requirements of the sections of
14	the Securities Exchange Act of 1934 and the Sar-
15	banes-Oxley Act of 2002, subject to such require-
16	ments as provided by subsection (l) of this section.
17	"(l) Modification of Certain Provisions.—In
18	connection with standards of Federal or State law (includ-
19	ing the Revised Model Corporation Act) or New York
20	Stock Exchange rules that are made applicable to an en-
21	terprise by section 1710.10 of the Director's rules (12
22	C.F.R. 1710.10) and by subsections (a), (b), (g), (i), (j),
23	and (k) of this section, the Director, in the Director's sole
24	discretion, may modify the standards contained in this sec-
25	tion or in part 1710 of the Director's rules (12 U.S.C.



Part 1710) in accordance with section 553 of title 5, United States Code, and upon written notice to the enter-3 prise.". SEC. 114. CONFORMING AMENDMENTS. 5 (a) 1992 Act.—Part 1 of subtitle A of title XIII of 6 the Housing and Community Development Act of 1992 7 (12 U.S.C. 4511 et seg.), as amended by the preceding provisions of this Act, is further amended— 8 9 (1) by striking "an enterprise" each place such 10 term appears in such part (except in sections 11 1313(a)(2)(A), 1313A(b)(2)(B)(ii)(I), and 12 1316(b)(3)) and inserting "a regulated entity"; 13 (2) by striking "the enterprise" each place such 14 term appears in such part (except in section 15 1316(b)(3)) and inserting "the regulated entity"; (3) by striking "the enterprises" each place 16 17 such term appears in such part (except in sections 18 1312(c)(2), 1312(e)(2), 1317(g)(1), and 19 1319B(a)(4)(D)) and inserting "the regulated enti-20 ties"; 21 (4) by striking "each enterprise" each place 22 such term appears in such part and inserting "each 23 regulated entity"; (5) by striking "Office" each place such term 24

appears in such part (except in sections 1312(b)(5),

1	1315(b), and $1316(g)$, and subsections (c) and (d)
2	of section 1317) and inserting "Agency";
3	(6) in section 1315 (12 U.S.C. 4515)—
4	(A) in subsection (a)—
5	(i) in the subsection heading, by strik-
6	ing "Office Personnel" and inserting
7	"In General"; and
8	(ii) by striking "The" and inserting
9	"Subject to titles III and IV of the Federal
10	Housing Finance Reform Act of 2005,
11	the'';
12	(B) by striking subsections (d);
13	(C) by redesignating subsections (e) and
14	(f) as subsections (d) and (e), respectively;
15	(7) in section 1316(c) (12 U.S.C. 4516(c)), by
16	striking "any enterprise" and inserting "any regu-
17	lated entity";
18	(8) in section 1319A (12 U.S.C. 4520)—
19	(A) by striking "(a) In General.—Each
20	enterprise" and inserting "Each regulated enti-
21	ty"; and
22	(B) by striking subsection (b);
23	(9) in section 1319B (12 U.S.C. 4521), by
24	striking "Committee on Banking, Finance and



1	Urban Affairs" each place such term appears and
2	inserting "Committee on Financial Services"; and
3	(10) in section 1319F (12 U.S.C. 4525), strik-
4	ing all that follows "United States Code" and insert-
5	ing ", the Agency shall be considered an agency re-
6	sponsible for the regulation or supervision of finan-
7	cial institutions.".
8	(b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—
9	The Federal National Mortgage Association Charter Act
10	(12 U.S.C. 1716 et seq.) is amended—
11	(1) by striking "Director of the Office of Fed-
12	eral Housing Enterprise Oversight of the Depart-
13	ment of Housing and Urban Development" each
14	place such term appears, and inserting "Director of
15	the Federal Housing Finance Agency", in—
16	(A) section $303(e)(2)$ (12 U.S.C.
17	1718(e)(2));
18	(B) section $309(d)(3)(B)$ (12 U.S.C.
19	1723a(d)(3)(B); and
20	(C) section $309(k)(1)$; and
21	(2) in section 309—
22	(A) in subsections $(d)(3)(A)$ and $(n)(1)$, by
23	striking "Banking, Finance and Urban Affairs"
24	each place such term appears and inserting
25	"Financial Services"; and



1	(B) in subsection (n)(1), by inserting "the
2	Director of the Federal Housing Finance Agen-
3	cy," after "Senate,".
4	(c) AMENDMENTS TO FREDDIE MAC ACT.—The Fed-
5	eral Home Loan Mortgage Corporation Act is amended—
6	(1) by striking "Director of the Office of Fed-
7	eral Housing Enterprise Oversight of the Depart-
8	ment of Housing and Urban Development" each
9	place such term appears, and inserting "Director of
10	the Federal Housing Finance Agency', in—
11	(A) section 303(b)(2) (12 U.S.C.
12	1452(b)(2));
13	(B) section $303(h)(2)$ (12 U.S.C.
14	1452(h)(2); and
15	(C) section $307(c)(1)$ (12 U.S.C.
16	1456(c)(1));
17	(2) in sections $303(h)(1)$ and $307(f)(1)$ (12)
18	U.S.C. $1452(h)(1)$, $1456(f)(1)$), by striking "Bank-
19	ing, Finance and Urban Affairs" each place such
20	term appears and inserting "Financial Services";
21	(3) in section 306(i) (12 U.S.C. 1455(i))—
22	(A) by striking "section 1316(c)" and in-
23	serting "section 306(c)"; and
24	(B) by striking "section 106" and insert-
25	ing "section 1316": and



1	(4) in section $307(f)(1)$ (12 U.S.C. $1456(f)(1)$),
2	by inserting "the Director of the Federal Housing
3	Finance Agency," after "Senate,".
4	Subtitle B—Improvement of
5	Mission Supervision
6	SEC. 121. TRANSFER OF PROGRAM AND ACTIVITIES AP-
7	PROVAL AND HOUSING GOAL OVERSIGHT.
8	Part 2 of subtitle A of title XIII of the Housing and
9	Community Development Act of 1992 (12 U.S.C. 4541 et
10	seq.) is amended—
11	(1) by striking the designation and heading for
12	the part and inserting the following:
13	"PART 2—PROGRAM AND ACTIVITIES APPROVAL
14	BY DIRECTOR, CORPORATE GOVERNANCE,
15	AND ESTABLISHMENT OF HOUSING GOALS";
16	and
17	(2) by striking sections 1321 and 1322.
18	SEC. 122. REVIEW BY DIRECTOR OF NEW PROGRAMS AND
19	ACTIVITIES OF ENTERPRISES.
20	(a) In General.—Part 2 of subtitle A of title XIII
21	of the Housing and Community Development Act of 1992
22	is amended by inserting before section 1323 (12 U.S.C.
23	4543) the following new section:



	<u> </u>
1	"SEC. 1321. REVIEW AND APPROVAL BY DIRECTOR OF NEW
2	PROGRAMS AND BUSINESS ACTIVITIES OF
3	ENTERPRISES.
4	"(a) Limitation on Authority to Undertake
5	PROGRAMS AND ACTIVITIES.—An enterprise may not un-
6	dertake any new program, including a pilot program, or
7	any new business activity except in accordance with the
8	procedures set forth in this section and orders and regula-
9	tions issued under this section.
10	"(b) New Programs.—
11	"(1) Prior approval requirement.—An en-
12	terprise may not commence any new program before
13	it has obtained the approval of the Director, pursu-
14	ant to this subsection, for the new program.
15	"(2) APPLICATION.—The Director shall, by
16	order or regulation, require that an enterprise shall,
17	to obtain a determination by the Director regarding
18	approval of a new program by the enterprise, submit
19	to the Director a written application for the new
20	program in a format as prescribed by the Director.
21	"(3) Notice.—Immediately upon receipt of a
22	complete application for a new program, the Direc-
23	tor shall cause to be published in the Federal Reg-
24	ister notice of the receipt of such application and of
25	the period for public comment pursuant to para-

graph (4) regarding such new program, and a de-



1	scription of the new program proposed by the appli-
2	cation.
3	"(4) Public comment period.—During the
4	30-day period beginning upon publication pursuant
5	to paragraph (3) of a notice regarding such an ap-
6	plication, the Director shall receive public comments
7	regarding the new program.
8	"(5) Determination.—Not less than 15 days
9	after the conclusion of the public comment period
10	pursuant to paragraph (4) regarding an application
11	but not more than 30 days after the conclusion of
12	such comment period, the Director shall approve,
13	conditionally approve, or reject such program, in
14	writing.
15	"(6) STANDARD FOR APPROVAL.—The Director
16	may approve, or conditionally approve, a new pro-
17	gram of an enterprise only if the Director deter-
18	mines, taking into consideration any relevant infor-
19	mation and comments received during the public
20	comment period, that such new program—
21	"(A) does not contravene and is not incon-
22	sistent with the purposes of this title, the Fed-
23	eral National Mortgage Association Charter
24	Act, or the Federal Home Loan Mortgage Cor-

poration Act, as such purposes are determined



1	taking into consideration the definitions of the
2	terms 'primary mortgage market' and 'sec-
3	ondary mortgage market' pursuant to section
4	1303;
5	"(B) is not otherwise inconsistent with the
6	safety and soundness of the enterprise; and
7	"(C) is in the public interest.
8	"(c) Business Activities.—
9	"(1) Authority of director to prohibit
10	ACTIVITIES.—The Director shall have authority to
11	prohibit any business activity by an enterprise if the
12	Director determines, in writing, that such activity—
13	"(A) contravenes or is inconsistent with
14	the purposes of this title, the Federal National
15	Mortgage Association Charter Act, or the Fed-
16	eral Home Loan Mortgage Corporation Act;
17	"(B) is otherwise inconsistent with the
18	safety and soundness of the enterprise; or
19	"(C) is not in the public interest.
20	"(2) Notification of New Business activi-
21	TIES.— An enterprise that undertakes any new busi-
22	ness activity shall provide written notice of the activ-
23	ity to the Director and may commence the new busi-
24	ness activity only in accordance with paragraph (4)



1	"(3) Director Determination of Applica-
2	BLE PROCEDURE.—
3	"(A) TIMING.—Immediately upon receipt
4	of any notice under paragraph (2) regarding a
5	new business activity, the Director shall under-
6	take a determination under subparagraph (B)
7	of this paragraph regarding the business activ-
8	ity.
9	"(B) DETERMINATION AND TREATMENT
10	AS NEW PROGRAM.—If the Director determines
11	that any new business activity consists of, re-
12	lates to, or involves any new program—
13	"(i) the Director shall notify the en-
14	terprise of the determination;
15	"(ii) the new business activity de-
16	scribed in the notice shall be considered ε
17	new program for purposes of this section
18	"(iii) the Director shall prohibit the
19	enterprise from carrying out the activity
20	except to the extent that approval for the
21	activity is obtained pursuant to subsection
22	(b).
23	"(4) Commencement.—An enterprise may
24	commence a new business activity—



1	"(A) if the Director issues a written ap-
2	proval regarding such business activity, imme-
3	diately upon such issuance or at such other
4	time as provided by the Director in such letter
5	or
6	"(B) if, during the 30-day period begin-
7	ning upon receipt by the Director of notice pur-
8	suant to paragraph (2) regarding a new busi-
9	ness activity, the Director has not issued to the
10	enterprise a written approval or denial of the
11	new business activity, upon the expiration of
12	such 30-day period.
13	"(d) Approval and Conditional Approval.—The
14	Director may at any time conditionally approve the under-
15	taking of a particular new program or business activity
16	by an enterprise and set forth the terms and conditions
17	that apply to the program or activity with which the enter-
18	prise shall comply if it undertakes the new program or
19	activity. Such approval may, in the discretion of the Direc-
20	tor, be in the form of a written agreement between the
21	enterprise and the Director and shall be subject to such
22	terms and conditions therein. Such a written agreement
23	or conditional approval shall be enforceable under subtitle
24	C.



1	"(1) Examinations.—Nothing in this section
2	may be construed to limit, in any manner, any other
3	authority or right the Director may have under
4	other provisions of law to conduct an examination of
5	an enterprise.
6	"(2) Requests for information.—Nothing
7	in this section may be construed to limit the right
8	of the Director at any time to request additional in-
9	formation from an enterprise concerning any busi-
10	ness activity.
11	"(3) No implied right of action.—This sec-
12	tion shall not create any private right of action
13	against an enterprise or any director or executive of-
14	ficer of an enterprise, or impair any private right of
15	action under other applicable law.
16	"(4) No limitation.—Nothing in this section
17	may be construed to restrict the general supervisory
18	and regulatory authority of the Director over all pro-
19	grams, products, activities, or business operations of
20	any kind.
21	"(f) Report on Programs and Business Activi-
22	TIES.—Not later than the expiration of the 180-day period
23	beginning on the effective date under section 184 of the
24	Federal Housing Finance Reform Act of 2005, each enter-

25 prise shall submit to the Director a report identifying and



1	describing each program and business activity of the en-
2	terprise engaged in or existing as of the submission of the
3	report.
4	"(g) REGULATIONS.—The Director shall by order or
5	regulation issue rules and procedures to implement this
6	section, including in the discretion of the Director, such
7	definitions, interpretations, forms, and other guidances as
8	the Director considers appropriate. ".
9	(b) Definitions.—Section 1303 of the Housing and
10	Community Development Act of 1992 (12 U.S.C. 4502),
11	as amended by section 2 of this Act, is further amended—
12	(1) by redesignating paragraphs (16) through
13	(22) as paragraphs (19) through (25), respectively;
14	and
15	(2) by inserting after paragraph (15) the fol-
16	lowing new paragraph:
17	"(18) New Business activity.—The term
18	'new business activity' means, with respect to an en-
19	terprise, any business activity of the enterprise
20	that—
21	"(A) the enterprise was not engaging in on
22	the effective date under section 184 of the Fed-
23	eral Housing Finance Reform Act of 2005; and
24	"(B) that the enterprise is not authorized,

pursuant to the provisions of section 1321(c),



1	to offer, undertake, transact, conduct, or en-
2	gage in.";
3	(3) by redesignating paragraphs (14) and (15)
4	as paragraphs (16) and (17), respectively;
5	(4) by inserting after paragraph (13) the fol-
6	lowing new paragraph:
7	"(15) Mortgage Markets.—The terms 'pri-
8	mary mortgage market' and 'secondary mortgage
9	market' shall have such meanings as the Director
10	shall, by regulation, prescribe consistent with the
11	Federal National Mortgage Association Charter Act
12	and the Federal Home Loan Mortgage Corporation
13	Act. The Director shall issue such regulations not
14	later than the expiration of the 6-month period be-
15	ginning on the effective date under section 184 of
16	the Federal Housing Finance Reform Act of 2005.
17	".
18	(5) by redesignating paragraphs (5) through
19	(13) as paragraphs (6) through (14), respectively;
20	and
21	(6) by inserting after paragraph (4) the fol-
22	lowing new paragraph:
23	"(5) Business activity.—The term 'business
24	activity' means, with respect to an enterprise any of-
25	fering, undertaking, transacting, conducting, or en-



- 1 gaging in any conduct or activity by an enterprise,
- 2 as the Director shall provide. ".

3 SEC. 123. CONFORMING LOAN LIMITS.

- 4 (a) Fannie Mae.—Section 302(b)(2) of the Federal
- 5 National Mortgage Association Charter Act (12 U.S.C.
- 6 1717(b)(2)) is amended by striking the 7th and 8th sen-
- 7 tences and inserting the following new sentences: "Such
- 8 limitations shall not exceed \$359,650 for a mortgage se-
- 9 cured by a single-family residence, \$460,400 for a mort-
- 10 gage secured by a 2-family residence, \$556,500 for a
- 11 mortgage secured by a 3-family residence, and \$694,600
- 12 for a mortgage secured by a 4-family residence, except
- 13 that such maximum limitations shall be adjusted effective
- 14 January 1 of each year beginning with 2006, subject to
- 15 the limitations in this paragraph. Each adjustment shall
- 16 be made by adding to or subtracting from each such
- 17 amount (as it may have been previously adjusted) a per-
- 18 centage thereof equal to the percentage increase or de-
- 19 crease during the 12-month period ending with the pre-
- 20 vious October in the housing price index maintained by
- 21 the Director of the Federal Housing Finance Agency (pur-
- 22 suant to section 1322 of the Housing and Community De-
- 23 velopment Act of 1992 (12 U.S.C. 4541)).".
- 24 (b) Freddie Mac.—Section 305(a)(2) of the Fed-
- 25 eral National Mortgage Association Charter Act (12



- 1 U.S.C. 1454(a)(2)) is amended by striking the 6th and
- 2 7th sentences and inserting the following new sentences:
- 3 "Such limitations shall not exceed \$359,650 for a mort-
- 4 gage secured by a single-family residence, \$460,400 for
- 5 a mortgage secured by a 2-family residence, \$556,500 for
- 6 a mortgage secured by a 3-family residence, and \$694,600
- 7 for a mortgage secured by a 4-family residence, except
- 8 that such maximum limitations shall be adjusted effective
- 9 January 1 of each year beginning with 2006, subject to
- 10 the limitations in this paragraph. Each adjustment shall
- 11 be made by adding to or subtracting from each such
- 12 amount (as it may have been previously adjusted) a per-
- 13 centage thereof equal to the percentage increase or de-
- 14 crease during the 12-month period ending with the pre-
- 15 vious October in the housing price index maintained by
- 16 the Director of the Federal Housing Finance Agency (pur-
- 17 suant to section 1322 of the Housing and Community De-
- 18 velopment Act of 1992 (12 U.S.C. 4541)).".
- 19 (c) Housing Price Index.—Subpart A of part 2 of
- 20 subtitle A of title XIII of the Housing and Community
- 21 Development Act of 1992 (as amended by the preceding
- 22 provisions of this Act) is amended by inserting after sec-
- 23 tion 1321 (as added by section 122 of this Act) the fol-
- 24 lowing new section:



1 "SEC. 1322. HOUSING PRICE INDEX.

2	"(a) In General.—The Director shall establish and
3	maintain a method of assessing the national average 1-
4	family house price for use for adjusting the conforming
5	loan limitations of the enterprises. In establishing such
6	method, the Director shall take into consideration the
7	monthly survey of all major lenders conducted by the Fed-
8	eral Housing Finance Agency to determine the national
9	average 1-family house price, the House Price Index main-
10	tained by the Office of Federal Housing Enterprise Over-
11	sight of the Department of Housing and Urban Develop-
12	ment before the effective date of the Federal Housing Fi-
13	nance Reform Act of 2005, any appropriate house price
14	indexes of the Bureau of the Census of the Department
15	of Commerce, and any other indexes or measures that the
16	Director considers appropriate.

17 "(b) GAO AUDIT.—

"(1) IN GENERAL.—At such times as are required under paragraph (2), the Comptroller General of the United States shall conduct an audit of the methodology established by the Director under subsection (a) to determine whether the methodology established is an accurate and appropriate means of measuring changes to the national average 1-family house price.



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1	"(2) Timing.—An audit referred to in para-
2	graph (1) shall be conducted and completed not later
3	than the expiration of the 180-day period that be-
4	gins upon each of the following dates:
5	"(A) ESTABLISHMENT.—The date upon
6	which such methodology is initially established
7	under subsection (a) in final form by the Direc-
8	tor.
9	"(B) Modification or amendment.—
10	Each date upon which any modification or
11	amendment to such methodology is adopted in
12	final form by the Director.
13	"(3) Report.—Within 30 days of the comple-
14	tion of any audit conducted under this subsection,
15	the Comptroller General shall submit a report detail-
16	ing the results and conclusions of the audit to the
17	Director, the Committee on Financial Services of the
18	House of Representatives, and the Committee on
19	Banking, Housing, and Urban Affairs of the Sen-
20	ate.".
21	SEC. 124. ANNUAL HOUSING REPORT REGARDING REGU-
22	LATED ENTITIES.
23	The Housing and Community Development Act of
24	1992 is amended by striking section 1324 (12 U.S.C.
25	4544) and inserting the following new section:



1	"SEC. 1324. ANNUAL HOUSING REPORT REGARDING REGU-
2	LATED ENTITIES.
3	"(a) In General.—After reviewing and analyzing
4	the reports submitted under section 309(n) of the Federal
5	National Mortgage Association Charter Act, section
6	307(f) of the Federal Home Loan Mortgage Corporation
7	Act, and section 10(j)(12) of the Federal Home Loan
8	Bank Act (12 U.S.C. 1430(j)(12)), the Director shall sub-
9	mit a report, as part of the annual report under section
10	1328, not later than October 30 of each year, to the Com-
11	mittee on Financial Services of the House of Representa-
12	tives and the Committee on Banking, Housing, and Urban
13	Affairs of the Senate, on the activities of each regulated
14	entity.
15	"(b) Contents.—The report shall—
16	"(1) discuss the extent to which—
17	"(A) each enterprise is achieving the an-
18	nual housing goals established under subpart B
19	of this part;
20	"(B) each Federal home loan bank is
21	meeting the contribution requirements under
22	section $10(j)(5)$ of the Federal Home Loan
23	Bank Act; and
24	"(C) each regulated entity is achieving the
25	purposes of the regulated entity established by
26	law;



1	"(2) aggregate and analyze census tract and
2	other relevant data to assess the compliance of each
3	enterprise with the central cities, rural areas, and
4	other underserved areas housing goal and to deter-
5	mine levels of business in central cities, rural areas,
6	underserved areas, low- and moderate-income census
7	tracts, minority census tracts, and other geo-
8	graphical areas deemed appropriate by the Director;
9	"(3) aggregate and analyze relevant data on in-
10	come to assess the compliance of each enterprise
11	with the housing goals under subpart B;
12	"(4) aggregate and analyze data on income,
13	race, and gender by census tract and other relevant
14	classifications, and compare such data with larger
15	demographic, housing, and economic trends;
16	"(5) examine actions that—
17	"(A) each enterprise has undertaken or
18	could undertake to promote and expand the an-
19	nual goals established under subpart B and the
20	purposes of the enterprise established by law;
21	and
22	"(B) each Federal home loan bank has
23	taken or could undertake to promote and ex-
24	pand the community investment program and

affordable housing program of the bank estab-



1	lished under section subsections (i) and (j) of
2	section 10 of the Federal Home Loan Bank
3	Act;
4	"(6) examine the primary and secondary multi-
5	family housing mortgage markets and describe—
6	"(A) the availability and liquidity of mort-
7	gage credit;
8	"(B) the status of efforts to provide stand-
9	ard credit terms and underwriting guidelines
10	for multifamily housing and to securitize such
11	mortgage products; and
12	"(C) any factors inhibiting such standard-
13	ization and securitization.
14	"(7) examine actions each regulated entity has
15	undertaken and could undertake to promote and ex-
16	pand opportunities for first-time homebuyers
17	"(8) describe any actions taken under section
18	1325(5) with respect to originators found to violate
19	fair lending procedures; and
20	"(9) discuss and analyze existing conditions and
21	trends, including conditions and trends relating to
22	pricing, in the housing markets and mortgage mar-
23	kets.
24	"(c) Data Collection and Reporting.—



1	"(1) In General.—To assist the Director in
2	analyzing the matters described in subsection (b)
3	and establishing the methodology described in sec-
4	tion 1322, the Director shall conduct, on a monthly
5	basis, a survey of mortgage markets in accordance
6	with this subsection.
7	"(2) Data points.—Each monthly survey con-
8	ducted by the Director under paragraph (1) shall
9	collect data on—
10	"(A) the characteristics of individual mort-
11	gages that are eligible for purchase by the en-
12	terprises and the characteristics of individual
13	mortgages that are not eligible for purchase by
14	the enterprises including, in both cases, infor-
15	mation concerning—
16	"(i) the price of the house that se-
17	cures the mortgage;
18	"(ii) the loan-to-value ratio of the
19	mortgage, which shall reflect any sec-
20	ondary liens on the relevant property;
21	"(iii) the terms of the mortgage;
22	"(iv) the creditworthiness of the bor-
23	rower or borrowers: and



1	"(v) whether the mortgage, in the
2	case of a conforming mortgage, was pur-
3	chased by an enterprise; and
4	"(B) such other matters as the Director
5	determines to be appropriate.
6	"(3) Public availability.—The Director
7	shall make any data collected by the Director in con-
8	nection with the conduct of a monthly survey avail-
9	able to the public in a timely manner, provided that
10	the Director may modify the data released to the
11	public to ensure that the data is not released in an
12	identifiable form.
13	"(4) Definition.—For purposes of this sub-
14	section, the term 'identifiable form' means any rep-
15	resentation of information that permits the identity
16	of a borrower to which the information relates to be
17	reasonably inferred by either direct or indirect
18	means.".
19	SEC. 125. ESTABLISHMENT OF HOUSING GOALS.
20	Section 1331 of the Housing and Community Devel-
21	opment Act of 1992 (12 U.S.C. 4561) is amended by
22	striking subsection (a) and inserting the following new
23	subsection:
24	"(a) In General.—The Director shall establish, by
25	regulation, housing goals under this subpart for each en-



- terprise. The housing goals shall include a low- and mod-
- 2 erate-income housing goal pursuant to section 1332, a
- 3 special affordable housing goal pursuant to section 1333,
- 4 a central cities, rural areas, and other underserved areas
- 5 housing goal pursuant to section 1334, a home purchase
- goal under section 1334A, and such other goals as the 6
- Director may establish under section 1334B. The Director
- 8 shall implement this subpart in a manner consistent with
- section 301(3) of the Federal National Mortgage Associa-
- 10 tion Charter Act and section 301(b)(3) of the Federal
- Home Loan Mortgage Corporation Act.".
- 12 SEC. 126. HOME PURCHASE GOAL AND ADDITIONS, MODI-
- 13 FICATIONS, AND RESCISSIONS TO GOALS.
- 14 The Housing and Community Development Act of
- 15 1992 is amended by inserting after section 1334 (12)
- U.S.C. 4564) the following new sections: 16
- 17 "SEC. 1334A. HOME PURCHASE GOAL.
- 18 "(a) IN GENERAL.—The Director shall establish an
- 19 annual home purchase goal for the purchase by each en-
- 20 terprise of mortgages financing the purchase of owner-oc-
- 21 cupied single family dwelling units. The Director may, by
- 22 regulation, establish components for such goal to include
- 23 any or all of the following: first-time homebuyers; low- and
- moderate-income homebuyers; homebuyers in central cit-
- ies, rural areas, and other underserved areas; and home-



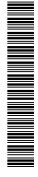
1	buyers of special affordable housing. The Director may,
2	by regulation, establish the goal with components as per-
3	centages of enterprise business or by such other means
4	as necessary to increase the enterprises' secondary market
5	financing of mortgages for home purchases consistent with
6	the enterprises' charter missions. The components of the
7	goal established by the Director shall be enforceable as
8	goals. The goal under this section with its components
9	must be established for metropolitan and rural areas for
10	which data is available.
11	"(b) Factors to Be Applied.—In establishing the
12	home purchase goal under this section for an enterprise,
13	the Director shall consider—
14	"(1) national housing needs;
15	"(2) economic, housing, and demographic condi-
16	tions;
17	"(3) the performance and effort of the enter-
18	prises toward achieving the home purchase goal in
19	previous years;
20	"(4) the size of the conventional mortgage mar-
21	ket serving home purchasers relative to the size of
22	the overall conventional mortgage market;
23	"(5) the ability of the enterprises to lead the in-
24	dustry in making mortgage credit available for home



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purchasers; and

1	"(6) the need to maintain the sound financial
2	condition of the enterprises.
3	"(c) Transition.—In order to permit a transition
4	to the goal established under this section, the Director
5	shall phase in the goal over a period of one year. Such
6	goal shall not be enforceable during the one-year transi-
7	tion period.
8	"(d) Implementation During Transition.—The
9	Director shall establish any requirements necessary to im-
10	plement the transition provisions under this section by no-
11	tice, after providing the enterprises with an opportunity
12	to review and comment not less than 30 days before the
13	issuance of such notice.
	issuance of such notice. "SEC. 1334B. HOUSING GOALS: ADDITIONS, MODIFICATIONS,
14	
13 14 15 16	"SEC. 1334B. HOUSING GOALS: ADDITIONS, MODIFICATIONS,
14 15 16	"SEC. 1334B. HOUSING GOALS: ADDITIONS, MODIFICATIONS, AND RESCISSIONS.
14 15 16 17	"SEC. 1334B. HOUSING GOALS: ADDITIONS, MODIFICATIONS, AND RESCISSIONS. "(a) IN GENERAL.—The Director may, by regulation,
14 15 16 17	"SEC. 1334B. HOUSING GOALS: ADDITIONS, MODIFICATIONS, AND RESCISSIONS. "(a) IN GENERAL.—The Director may, by regulation, establish additional annual housing goals, or modify or re-
14 15 16 17 18	"SEC. 1334B. HOUSING GOALS: ADDITIONS, MODIFICATIONS, AND RESCISSIONS. "(a) IN GENERAL.—The Director may, by regulation, establish additional annual housing goals, or modify or rescind existing housing goals, to address national housing
14 15 16 17 18	"SEC. 1334B. HOUSING GOALS: ADDITIONS, MODIFICATIONS, AND RESCISSIONS. "(a) IN GENERAL.—The Director may, by regulation, establish additional annual housing goals, or modify or rescind existing housing goals, to address national housing needs consistent with the enterprises' charters for the pur-
14 15 16 17 18 19 20	"SEC. 1334B. HOUSING GOALS: ADDITIONS, MODIFICATIONS, AND RESCISSIONS. "(a) IN GENERAL.—The Director may, by regulation, establish additional annual housing goals, or modify or rescind existing housing goals, to address national housing needs consistent with the enterprises' charters for the purchase of mortgages where the Director determines by regulation that the housing need is greatest. The Director
14 15 16 17 18 19 20 21	"SEC. 1334B. HOUSING GOALS: ADDITIONS, MODIFICATIONS, AND RESCISSIONS. "(a) IN GENERAL.—The Director may, by regulation, establish additional annual housing goals, or modify or rescind existing housing goals, to address national housing needs consistent with the enterprises' charters for the purchase of mortgages where the Director determines by regulation that the housing need is greatest. The Director



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of each enterprise;

1	"(2) as a dollar amount of each enterprise's
2	mortgage purchases; or
3	"(3) by such other means as necessary to in-
4	crease the enterprises' secondary market financing
5	of mortgages addressed by the goal.
6	"(b) Factors to Be Applied.—In establishing,
7	modifying, or rescinding a goal, the Director shall
8	consider—
9	"(1) national housing needs;
10	"(2) economic, housing, and demographic condi-
11	tions;
12	"(3) the performance and effort of the enter-
13	prises toward achieving the need addressed by such
14	goal in previous years;
15	"(4) the size of the conventional mortgage mar-
16	ket serving the need addressed by the goal relative
17	to the size of the overall conventional mortgage mar-
18	ket;
19	"(5) the ability of the enterprises to lead the in-
20	dustry in making mortgage credit available to meet
21	the need addressed by the goal; and
22	"(6) the need to maintain the sound financial
23	condition of the enterprises.
24	"(c) Timing.—The Director may exercise the author-
25	ity under this section to issue regulations to establish,



- 1 modify, or rescind housing goals not more than once per
- 2 calendar year. Such regulations for a calendar year may
- 3 establish, or make modifications or rescissions with re-
- 4 spect to, more than one annual housing goal, but all such
- 5 regulations for a calendar year shall be issued concur-
- 6 rently.
- 7 "(d) Transition.—In order to permit a transition
- 8 to any goal established under this section, the Director
- 9 shall phase in such goal over a period of one year. Such
- 10 goal shall not be enforceable during the one-year transi-
- 11 tion period.
- 12 "(e) Implementation During Transition.—The
- 13 Director shall establish any requirements necessary to im-
- 14 plement the transition provisions under this section by no-
- 15 tice, after providing the enterprises with an opportunity
- 16 to review and comment not less than 30 days before the
- 17 issuance of such notice.".
- 18 SEC. 127. OTHER REQUIREMENTS.
- The first sentence of section 1335(a) of the Housing
- 20 and Community Development Act of 1992 (12 U.S.C.
- 21 4565(a)) is amended by striking "low-" and all that fol-
- 22 lows through "1334" and inserting "goals under this sub-
- 23 part".



1	SEC. 128. MONITORING AND ENFORCING COMPLIANCE
2	WITH HOUSING GOALS.
3	Section 1336 of the Housing and Community Devel-
4	opment Act of 1992 (12 U.S.C. 4566) is amended—
5	(1) in subsection (a)(1), by striking "estab-
6	lished" and all that follows through "1334" and in-
7	serting "under this subpart";
8	(2) in subsection (b)—
9	(A) in the subsection heading, by inserting
10	"Preliminary" before "Determination";
11	(B) by striking paragraph (1) and insert-
12	ing the following new paragraph:
13	"(1) Notice.—If the Director preliminarily de-
14	termines that an enterprise has failed, or that there
15	is a substantial probability that an enterprise will
16	fail, to meet any housing goal under this subpart,
17	the Director shall provide written notice to the en-
18	terprise of such a preliminary determination, the
19	reasons for such determination, and the information
20	on which the Director based the determination.";
21	(C) in paragraph (2)—
22	(i) in subparagraph (A), by inserting
23	"finally" before "determining";
24	(ii) by striking subparagraphs (B) and
25	(C) and inserting the following new sub-
26	paragraph:



1	"(B) Extension or shortening of pe-
2	RIOD.—The Director may—
3	"(i) extend the period under subpara-
4	graph (A) for good cause for not more
5	than 30 additional days; and
6	"(ii) shorten the period under sub-
7	paragraph (A) for good cause."; and
8	(iii) by redesignating subparagraph
9	(D) as subparagraph (C); and
10	(D) in paragraph (3)—
11	(i) in subparagraph (A), by striking
12	"determine" and inserting "issue a final
13	determination of";
14	(ii) in subparagraph (B), by inserting
15	"final" before "determinations"; and
16	(iii) in subparagraph (C)——
17	(I) by striking "Committee on
18	Banking, Finance and Urban Affairs"
19	and inserting "Committee on Finan-
20	cial Services"; and
21	(II) by inserting "final" before
22	"determination" each place such term
23	appears; and
24	(3) in subsection (c)—



1	(A) by striking the subsection designation
2	and heading and all that follows through the
3	end of paragraph (1) and inserting the fol-
4	lowing:
5	"(c) Cease and Desist Orders, Civil Money
6	PENALTIES, AND REMEDIES INCLUDING HOUSING
7	Plans.—
8	"(1) REQUIREMENT.—If the Director finds,
9	pursuant to subsection (b), that there is a substan-
10	tial probability that an enterprise will fail, or has ac-
11	tually failed, to meet any housing goal under this
12	subpart and that the achievement of the housing
13	goal was or is feasible, the Director may require that
14	the enterprise submit a housing plan under this sub-
15	section. If the Director makes such a finding and
16	the enterprise refuses to submit such a plan, sub-
17	mits an unacceptable plan, fails to comply with the
18	plan or the Director finds that the enterprise has
19	failed to meet any housing goal under this subpart,
20	in addition to requiring an enterprise to submit a
21	housing plan, the Director may issue a cease and de-
22	sist order in accordance with section 1341, impose
23	civil money penalties in accordance with section
24	1345, or order other remedies as set forth in para-
25	graph (7) of this subsection.";



1	(B) in paragraph (2)—
2	(i) by striking "Contents.—Each
3	housing plan" and inserting "Housing
4	PLAN.—If the Director requires a housing
5	plan under this section, such a plan"; and
6	(ii) in subparagraph (B), by inserting
7	"and changes in its operations" after "im-
8	provements";
9	(C) in paragraph (3)—
10	(i) by inserting "comply with any re-
11	medial action or" before "submit a housing
12	plan''; and
13	(ii) by striking "under subsection
14	(b)(3) that a housing plan is required";
15	(D) in paragraph (4), by striking the first
16	two sentences and inserting the following: "The
17	Director shall review each submission by an en-
18	terprise, including a housing plan submitted
19	under this subsection, and not later than 30
20	days after submission, approve or disapprove
21	the plan or other action. The Director may ex-
22	tend the period for approval or disapproval for
23	a single additional 30-day period if the Director
24	determines such extension necessary.": and



1	(E) by adding at the end the following new
2	paragraph:
3	"(7) Additional remedies for failure to
4	MEET GOALS.—In addition to ordering a housing
5	plan under this section, issuing cease and desist or-
6	ders under section 1341, and ordering civil money
7	penalties under section 1345, the Director may seek
8	other actions when an enterprise fails to meet a
9	goal, and exercise appropriate enforcement authority
10	available to the Director under this Act to prohibit
11	the enterprise from entering into new programs and
12	new business activities and to order the enterprise to
13	suspend programs and business activities pending its
14	achievement of the goal.".
15	SEC. 129. ENFORCEMENT.
16	(a) Cease-and-Desist Proceedings.—Section
17	1341 of the Housing and Community Development Act
18	of 1992 (12 U.S.C. 4581) is amended—
19	(1) by striking subsection (a) and inserting the
20	following new subsection:
21	"(a) Grounds for Issuance.—The Director may
22	issue and serve a notice of charges under this section upon
23	an enterprise if the Director determines—
24	"(1) the enterprise has failed to meet any hous-

ing goal established under subpart B, following a



written notice and determination of such failure in
accordance with section 1336;
"(2) the enterprise has failed to submit a report
under section 1314, following a notice of such fail-
ure, an opportunity for comment by the enterprise,
and a final determination by the Director;
"(3) the enterprise has failed to submit the in-
formation required under subsection (m) or (n) of
section 309 of the Federal National Mortgage Asso-
ciation Charter Act, or subsection (e) or (f) of sec-
tion 307 of the Federal Home Loan Mortgage Cor-
poration Act;
"(4) the enterprise has violated any provision of
this part or any order, rule or regulation under this
part;
"(5) the enterprise has failed to submit a hous-
ing plan that complies with section 1336(c) within
the applicable period; or
"(6) the enterprise has failed to comply with a
housing plan under section 1336(c).";
(2) in subsection (b)(2), by striking "requiring
the enterprise to" and all that follows through the
end of the paragraph and inserting the following:
"requiring the enterprise to—

"(A) comply with the goal or goals;



1	"(B) submit a report under section 1314;
2	"(C) comply with any provision this part
3	or any order, rule or regulation under such
4	part;
5	"(D) submit a housing plan in compliance
6	with section 1336(c);
7	"(E) comply with a housing plan submitted
8	under section 1336(c); or
9	"(F) provide the information required
10	under subsection (m) or (n) of section 309 of
11	the Federal National Mortgage Association
12	Charter Act or subsection (e) or (f) of section
13	307 of the Federal Home Loan Mortgage Cor-
14	poration Act, as applicable.";
15	(3) in subsection (c), by inserting "date of the"
16	before "service of the order"; and
17	(4) by striking subsection (d).
18	(b) AUTHORITY OF DIRECTOR TO ENFORCE NOTICES
19	AND ORDERS.—Section 1344 of the Housing and Commu-
20	nity Development Act of 1992 (12 U.S.C. 4584) is amend-
21	ed by striking subsection (a) and inserting the following
22	new subsection:
23	"(a) Enforcement.—The Director may, in the dis-
24	cretion of the Director, apply to the United States District
25	Court for the District of Columbia, or the United States



district court within the jurisdiction of which the head-2 quarters of the enterprise is located, for the enforcement 3 of any effective and outstanding notice or order issued 4 under section 1341 or 1345, or request that the Attorney 5 General of the United States bring such an action. Such court shall have jurisdiction and power to order and re-6 7 quire compliance with such notice or order.". 8 (c) Civil Money Penalties.—Section 1345 of the Housing and Community Development Act of 1992 (12) 10 U.S.C. 4585) is amended— 11 (1) by striking subsections (a) and (b) and in-12 serting the following new subsections: 13 "(a) AUTHORITY.—The Director may impose a civil money penalty, in accordance with the provisions of this 14 15 section, on any enterprise that has failed to— 16 "(1) meet any housing goal established under 17 subpart B, following a written notice and determina-18 tion of such failure in accordance with section 19 1336(b);20 "(2) submit a report under section 1314, fol-21 lowing a notice of such failure, an opportunity for 22 comment by the enterprise, and a final determina-23 tion by the Director;

"(3) submit the information required under

subsection (m) or (n) of section 309 of the Federal



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1	National Mortgage Association Charter Act, or sub-
2	section (e) or (f) of section 307 of the Federal Home
3	Loan Mortgage Corporation Act;
4	"(4) comply with any provision of this part or
5	any order, rule or regulation under this part;
6	"(5) submit a housing plan pursuant to section
7	1336(c) within the required period; or
8	"(6) comply with a housing plan for the enter-
9	prise under section 1336(c).
10	"(b) Amount of Penalty.—The amount of the
11	penalty, as determined by the Director, may not exceed—
12	"(1) for any failure described in paragraph (1),
13	(5), or (6) of subsection (a), \$50,000 for each day
14	that the failure occurs; and
15	"(2) for any failure described in paragraph (2),
16	(3), or (4) of subsection (a), \$20,000 for each day
17	that the failure occurs.";
18	(2) in subsection (e)—
19	(A) in paragraph (1)—
20	(i) in subparagraph (A), by inserting
21	"and" after the semicolon at the end;
22	(ii) in subparagraph (B), by striking
23	"; and" and inserting a period; and
24	(iii) by striking subparagraph (C);
25	and



1	(B) in paragraph (2), by inserting after
2	the period at the end the following: "In deter-
3	mining the penalty under subsection (a)(1), the
4	Director shall give consideration to the length
5	of time the enterprise should reasonably take to
6	achieve the goal.";
7	(3) in the first sentence of subsection (d)—
8	(A) by striking "request the Attorney Gen-
9	eral of the United States to" and inserting ",
10	in the discretion of the Director,"; and
11	(B) by inserting ", or request that the At-
12	torney General of the United States bring such
13	an action" before the period at the end;
14	(4) by striking subsection (f); and
15	(5) by redesignating subsection (g) as sub-
16	section (f).
17	(d) Conforming Amendment.—The heading for
18	subpart C of part 2 of subtitle A of the Housing and Com-
19	munity Development Act of 1992 is amended to read as
20	follows:
21	"Subpart C—Enforcement".
22	SEC. 130. CONFORMING AMENDMENTS.
23	Part 2 of subtitle A of title XIII of the Housing and
24	Community Development Act of 1992 (12 U.S.C. 4541 et
25	seq.) is amended—



1	(1) by striking "Secretary" each place such
2	term appears in such part and inserting "Director";
3	(2) in the section heading for section 1323 (12
4	U.S.C. 4543), by inserting " OF ENTERPRISES " be-
5	fore the period at the end;
6	(3) in section 1326 (12 U.S.C. 4546)—
7	(A) in subsection (a)—
8	(i) by striking "or" the last place it
9	appears; and
10	(ii) by inserting ", or section
11	10(j)(12) of the Federal Home Loan Bank
12	Act (12 U.S.C. 1441a)" before the period
13	at the end; and
14	(B) in subsection (b)—
15	(i) by striking "or" the last place it
16	appears and inserting a comma; and
17	(ii) by inserting ", or section
18	10(j)(12) of the Federal Home Loan Bank
19	Act (12 U.S.C. 1441a" before the period
20	at the end;
21	(4) by striking section 1327 (12 U.S.C. 4547);
22	(5) by striking section 1328 (12 U.S.C. 4548);
23	(6) in section 1332 (12 U.S.C. 4562), by strik-
24	ing subsection (d);



1	(7) in section 1333 (12 U.S.C. 4563), by strik-
2	ing subsection (d);
3	(8) in section 1334 (12 U.S.C. 4564), by strik-
4	ing subsection (d);
5	(9) by striking sections 1337 and 1338 (12
6	U.S.C. 4567, 4562 note);
7	(10) in sections $1345(e)(1)(A)$ and $1346(b)$ (12)
8	U.S.C. $4585(e)(1)(A)$, $4586(b)$), by striking "Sec-
9	retary's" each place such term appears and inserting
10	"Director's"; and
11	(11) by striking section 1349 (12 U.S.C. 4589).
12	Subtitle C—Prompt Corrective
13	Action
14	SEC. 141. CAPITAL CLASSIFICATIONS.
15	(a) In General.—Section 1364 of the Housing and
16	Community Development Act of 1992 (12 U.S.C. 4614)
17	is amended—
18	(1) in the heading for subsection (a) by striking
19	"In General" and inserting "Enterprises";
• •	in deneral and inserting linter mises,
20	(2) in subsection (c)—
2021	
	(2) in subsection (e)—
21	(2) in subsection (c)— (A) by striking "subsection (b)" and in-
21 22	(2) in subsection (c)— (A) by striking "subsection (b)" and inserting "subsection (c)";



1	(3) by redesignating subsections (c) (as so
2	amended by paragraph (2) of this subsection) and
3	(d) as subsections (d) and (f), respectively;
4	(4) by striking subsection (b) and inserting the
5	following new subsections:
6	"(b) Federal Home Loan Banks.—
7	"(1) Establishment and criteria.—For
8	purposes of this subtitle, the Director shall, by
9	regulation—
10	"(A) establish the capital classifications
11	specified under paragraph (2) for the Federal
12	home loan banks;
13	"(B) establish criteria for each such cap-
14	ital classification based on the amount and
15	types of capital held by a bank and the risk-
16	based, minimum, and critical capital levels for
17	the banks and taking due consideration of the
18	capital classifications established under sub-
19	section (a) for the enterprises, with such modi-
20	fications as the Director determines to be ap-
21	propriate to reflect the difference in operations
22	between the banks and the enterprises; and
23	"(C) shall classify the Federal home loan
24	banks according to such capital classifications.



1	"(2) Classifications.—The capital classifica-
2	tions specified under this paragraph are—
3	"(A) adequately capitalized;
4	"(B) undercapitalized;
5	"(C) significantly undercapitalized; and
6	"(D) critically undercapitalized.
7	"(c) DISCRETIONARY CLASSIFICATION.—
8	"(1) Grounds for reclassification.—The
9	Director may reclassify a regulated entity under
10	paragraph (2) if—
11	"(A) at any time, the Director determines
12	in writing that the regulated entity is engaging
13	in conduct that could result in a rapid depletion
14	of core or total capital or, in the case of an en-
15	terprise, that the value of the property subject
16	to mortgages held or securitized by the enter-
17	prise has decreased significantly;
18	"(B) after notice and an opportunity for
19	hearing, the Director determines that the regu-
20	lated entity is in an unsafe or unsound condi-
21	tion; or
22	"(C) pursuant to section 1371(b), the Di-
23	rector deems the regulated entity to be engag-
24	ing in an unsafe or unsound practice.



1	"(2) Reclassification.—In addition to any
2	other action authorized under this title, including
3	the reclassification of a regulated entity for any rea-
4	son not specified in this subsection, if the Director
5	takes any action described in paragraph (1) the Di-
6	rector may classify a regulated entity—
7	"(A) as undercapitalized, if the regulated
8	entity is otherwise classified as adequately cap-
9	italized;
10	"(B) as significantly undercapitalized, if
11	the regulated entity is otherwise classified as
12	undercapitalized; and
13	"(C) as critically undercapitalized, if the
14	regulated entity is otherwise classified as sig-
15	nificantly undercapitalized."; and
16	(5) by inserting after subsection (d) (as so re-
17	designated by paragraph (3) of this subsection), the
18	following new subsection:
19	"(e) Restriction on Capital Distributions.—
20	"(1) In general.—A regulated entity shall
21	make no capital distribution if, after making the dis-
22	tribution, the regulated entity would be under-
23	capitalized.
24	"(2) Exception.—Notwithstanding paragraph
25	(1), the Director may permit a regulated entity, to



1	the extent appropriate or applicable, to repurchase,
2	redeem, retire, or otherwise acquire shares or owner-
3	ship interests if the repurchase, redemption, retire-
4	ment, or other acquisition—
5	"(A) is made in connection with the
6	issuance of additional shares or obligations of
7	the regulated entity in at least an equivalent
8	amount; and
9	"(B) will reduce the financial obligations of
10	the regulated entity or otherwise improve the fi-
11	nancial condition of the entity.".
12	(b) REGULATIONS.—Not later than the expiration of
13	the 120-day period beginning on the effective date under
14	section 184, the Director of the Federal Housing Finance
15	Agency shall issue regulations to carry out section 1364(b)
16	of the Housing and Community Development Act of 1992
17	(as added by paragraph (4) of this subsection), relating
18	to capital classifications for the Federal home loan banks.
19	SEC. 142. SUPERVISORY ACTIONS APPLICABLE TO UNDER-
20	CAPITALIZED REGULATED ENTITIES.
21	Section 1365 of the Housing and Community Devel-
22	opment Act of 1992 (12 U.S.C. 4615) is amended—
23	(1) in the section heading, by striking "ENTER-
24	PRISES" and inserting "ENTITIES";
25	(2) in subsection (a)—



1	(A) by redesignating paragraphs (1) and
2	(2) as paragraphs (2) and (3), respectively;
3	(B) by inserting before paragraph (2) the
4	following paragraph:
5	"(1) REQUIRED MONITORING.—The Director
6	shall—
7	"(A) closely monitor the condition of any
8	regulated entity that is classified as under-
9	capitalized;
10	"(B) closely monitor compliance with the
11	capital restoration plan, restrictions, and re-
12	quirements imposed under this section; and
13	"(C) periodically review the plan, restric-
14	tions, and requirements applicable to the under-
15	capitalized regulated entity to determine wheth-
16	er the plan, restrictions, and requirements are
17	achieving the purpose of this section."; and
18	(C) by inserting at the end the following
19	new paragraphs:
20	"(4) Restriction of Asset Growth.—A reg-
21	ulated entity that is classified as undercapitalized
22	shall not permit its average total assets (as such
23	term is defined in section 1316(b) during any cal-
24	endar quarter to exceed its average total assets dur-
25	ing the preceding calendar quarter unless—



1	"(A) the Director has accepted the capital
2	restoration plan of the regulated entity;
3	"(B) any increase in total assets is con-
4	sistent with the plan; and
5	"(C) the ratio of core or total capital to as-
6	sets for the regulated entity increases during
7	the calendar quarter at a rate sufficient to en-
8	able the entity to become adequately capitalized
9	within a reasonable time.
10	"(5) Prior approval of acquisitions, new
11	PROGRAMS, AND NEW BUSINESS ACTIVITIES.—A reg-
12	ulated entity that is classified as undercapitalized
13	shall not, directly or indirectly, acquire any interest
14	in any entity or engage in any new program or new
15	business activity unless—
16	"(A) the Director has accepted the capital
17	restoration plan of the regulated entity, the en-
18	tity is implementing the plan, and the Director
19	determines that the proposed action is con-
20	sistent with and will further the achievement of
21	the plan; or
22	"(B) the Director determines that the pro-
23	posed action will further the purpose of this
24	section."; and



1	(3) in the subsection heading for subsection (b),
2	by striking "From Undercapitalized to Signifi-
3	CANTLY UNDERCAPITALIZED"; and
4	(4) by striking subsection (c) and inserting the
5	following new subsection:
6	"(c) Other Discretionary Safeguards.—The
7	Director may take, with respect to a regulated entity that
8	is classified as undercapitalized, any of the actions author-
9	ized to be taken under section 1366 with respect to a regu-
10	lated entity that is classified as significantly undercapital-
11	ized, if the Director determines that such actions are nec-
12	essary to carry out the purpose of this subtitle.".
13	SEC. 143. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFI-
1314	SEC. 143. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFI- CANTLY UNDERCAPITALIZED REGULATED
14	
14 15	CANTLY UNDERCAPITALIZED REGULATED
141516	CANTLY UNDERCAPITALIZED REGULATED ENTITIES.
14 15 16 17	CANTLY UNDERCAPITALIZED REGULATED ENTITIES. Section 1366 of the Housing and Community Devel-
14 15 16 17 18	CANTLY UNDERCAPITALIZED REGULATED ENTITIES. Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended——————————————————————————————————
14 15 16 17 18	CANTLY UNDERCAPITALIZED REGULATED ENTITIES. Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended (1) in the section heading, by striking "ENTER-
14 15 16 17 18 19 20	CANTLY UNDERCAPITALIZED REGULATED ENTITIES. Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended (1) in the section heading, by striking "ENTER-PRISES" and inserting "ENTITIES";
14 15 16 17 18 19 20 21	CANTLY UNDERCAPITALIZED REGULATED ENTITIES. Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended (1) in the section heading, by striking "ENTER-PRISES" and inserting "ENTITIES"; (2) in subsection (a)(2)(A), by striking "enter-
	CANTLY UNDERCAPITALIZED REGULATED ENTITIES. Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended— (1) in the section heading, by striking "ENTER-PRISES" and inserting "ENTITIES"; (2) in subsection (a)(2)(A), by striking "enterprise" the last place such term appears;
14 15 16 17 18 19 20 21	CANTLY UNDERCAPITALIZED REGULATED ENTITIES. Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended— (1) in the section heading, by striking "ENTER-PRISES" and inserting "ENTITIES"; (2) in subsection (a)(2)(A), by striking "enterprise" the last place such term appears; (3) in subsection (b)—



1	(B) in the matter preceding paragraph (1),
2	by striking "may, at any time, take any" and
3	inserting "shall carry out this section by taking,
4	at any time, one or more";
5	(C) by redesignating paragraphs (5) and
6	(6) as paragraphs (6) and (7), respectively;
7	(D) by inserting after paragraph (4) the
8	following new paragraph:
9	"(5) Improvement of management.—Take
10	one or more of the following actions:
11	"(A) New election of board.—Order a
12	new election for the board of directors of the
13	regulated entity.
14	"(B) Dismissal of directors or execu-
15	TIVE OFFICERS.—Require the regulated entity
16	to dismiss from office any director or executive
17	officer who had held office for more than 180
18	days immediately before the entity became
19	undercapitalized. Dismissal under this subpara-
20	graph shall not be construed to be a removal
21	pursuant to the Director's enforcement powers
22	provided in section 1377.
23	"(C) Employ qualified executive of-
24	FICERS.—Require the regulated entity to em-
25	ploy qualified executive officers (who, if the Di-



1	rector so specifies, shall be subject to approva
2	by the Director)."; and
3	(E) by inserting at the end the following
4	new paragraph:
5	"(8) OTHER ACTION.—Require the regulated
6	entity to take any other action that the Director de-
7	termines will better carry out the purpose of this
8	section than any of the actions specified in this
9	paragraph.";
10	(4) by redesignating subsection (c) as sub-
11	section (d); and
12	(5) by inserting after subsection (b) the fol-
13	lowing new subsection:
14	"(c) Restriction on Compensation of Execu-
15	TIVE OFFICERS.—A regulated entity that is classified as
16	significantly undercapitalized may not, without prior writ-
17	ten approval by the Director—
18	"(1) pay any bonus to any executive officer; or
19	"(2) provide compensation to any executive offi-
20	cer at a rate exceeding that officer's average rate of
21	compensation (excluding bonuses, stock options, and
22	profit sharing) during the 12 calendar months pre-
23	ceding the calendar month in which the regulated
24	entity became undercapitalized.".



1	SEC. 144. AUTHORITY OVER CRITICALLY UNDERCAPITAL
2	IZED REGULATED ENTITIES.
3	(a) Enterprises.—Section 1367 of the Housing and
4	Community Development Act of 1992 (12 U.S.C. 4617)
5	is amended to read as follows:
6	"SEC. 1367. AUTHORITY OVER CRITICALLY UNDERCAPITAL
7	IZED ENTERPRISES.
8	"(a) Appointment of Agency as Conservator
9	OR RECEIVER.—
10	"(1) In general.—Notwithstanding any other
11	provision of Federal law, the Director may establish
12	a conservatorship or receivership in the manner pro-
13	vided under paragraph (2).
14	"(2) Appointment.—The Agency may, at the
15	discretion of the Director, be appointed conservator
16	or receiver for the purpose of reorganizing, rehabili-
17	tating, or winding up the affairs of an enterprise
18	"(3) Grounds for appointment.—The
19	grounds for appointing a conservator or receiver for
20	any enterprise are as follows:
21	"(A) Assets insufficient for obliga-
22	TIONS.—The assets of the enterprise are less
23	than the obligations of the enterprise to its
24	creditors and others.



1	"(B) Substantial dissipation.—Sub-
2	stantial dissipation of assets or earnings due
3	to—
4	"(i) any violation of any provision of
5	Federal or State law; or
6	"(ii) any unsafe or unsound practice.
7	"(C) Unsafe or unsound condition.—
8	An unsafe or unsound condition to transact
9	business.
10	"(D) Cease-and-desist orders.—Any
11	willful violation of a cease-and-desist order that
12	has become final.
13	"(E) Concealment.—Any concealment of
14	the books, papers, records, or assets of the en-
15	terprise, or any refusal to submit the books, pa-
16	pers, records, or affairs of the enterprise, for
17	inspection to any examiner or to any lawful
18	agent of the Director.
19	"(F) Inability to meet obligations.—
20	The enterprise is likely to be unable to pay its
21	obligations or meet the demands of its creditors
22	in the normal course of business.
23	"(G) Losses.—The enterprise has in-
24	curred or is likely to incur losses that will de-
25	plete all or substantially all of its capital, and



1	there is no reasonable prospect for the enter-
2	prise to become adequately capitalized (as de-
3	fined in section $1364(a)(1)$).
4	"(H) VIOLATIONS OF LAW.—Any violation
5	of any law or regulation, or any unsafe or un-
6	sound practice or condition that is likely to—
7	"(i) cause insolvency or substantial
8	dissipation of assets or earnings; or
9	"(ii) weaken the condition of the en-
10	terprise.
11	"(I) Consent.—The enterprise, by resolu-
12	tion of its board of directors or its shareholders
13	or members, consents to the appointment.
14	"(J) Undercapitalization.—The enter-
15	prise is undercapitalized or significantly under-
16	capitalized (as defined in section 1364(a)(3)),
17	and—
18	"(i) has no reasonable prospect of be-
19	coming adequately capitalized;
20	"(ii) fails to become adequately cap-
21	italized, as required by—
22	"(I) section 1365(a)(1) with re-
23	spect to an undercapitalized enter-
24	prise; or



1	"(II) section $1366(a)(1)$ with re-
2	spect to a significantly undercapital-
3	ized enterprise;
4	"(iii) fails to submit a capital restora-
5	tion plan acceptable to the Agency within
6	the time prescribed under section 1369C;
7	or
8	"(iv) materially fails to implement a
9	capital restoration plan submitted and ac-
10	cepted under section 1369C.
11	"(K) Critical undercapitalization.—
12	The enterprise is critically undercapitalized, as
13	defined in section $1364(a)(4)$.
14	"(L) Money Laundering.—The Attorney
15	General notifies the Director in writing that the
16	enterprise has been found guilty of a criminal
17	offense under section 1956 or 1957 of title 18,
18	United States Code, or section 5322 or 5324 of
19	title 31, United States Code.
20	"(4) Judicial review.—
21	"(A) In General.—If the Agency is ap-
22	pointed conservator or receiver under this sec-
23	tion, the enterprise may, within 30 days of such
24	appointment, bring an action in the United
25	States District Court for the judicial district in



1	which the home office of such enterprise is lo-
2	cated, or in the United States District Court
3	for the District of Columbia, for an order re-
4	quiring the Agency to remove itself as conser-
5	vator or receiver.
6	"(B) Review.—Upon the filing of an ac-
7	tion under subparagraph (A), the court shall,
8	upon the merits, dismiss such action or direct
9	the Agency to remove itself as such conservator
10	or receiver.
11	"(5) Directors not liable for acqui-
12	ESCING IN APPOINTMENT OF CONSERVATOR OR RE-
13	CEIVER.—The members of the board of directors of
14	an enterprise shall not be liable to the shareholders
15	or creditors of the enterprise for acquiescing in or
16	consenting in good faith to the appointment of the
17	Agency as conservator or receiver for that enter-
18	prise.
19	"(6) Agency not subject to any other
20	FEDERAL AGENCY.—When acting as conservator or
21	receiver, the Agency shall not be subject to the di-
22	rection or supervision of any other agency of the
23	United States or any State in the exercise of the

rights, powers, and privileges of the Agency.



1	"(b) Powers and Duties of the Agency as Con-
2	SERVATOR OR RECEIVER.—
3	"(1) Rulemaking authority of the agen-
4	CY.—The Agency may prescribe such regulations as
5	the Agency determines to be appropriate regarding
6	the conduct of conservatorships or receiverships.
7	"(2) General powers.—
8	"(A) Successor to enterprise.—The
9	Agency shall, as conservator or receiver, and by
10	operation of law, immediately succeed to—
11	"(i) all rights, titles, powers, and
12	privileges of the enterprise, and of any
13	stockholder, officer, or director of such en-
14	terprise with respect to the enterprise and
15	the assets of the enterprise; and
16	"(ii) title to the books, records, and
17	assets of any other legal custodian of such
18	enterprise.
19	"(B) OPERATE THE ENTERPRISE.—The
20	Agency may, as conservator or receiver—
21	"(i) take over the assets of and oper-
22	ate the enterprise with all the powers of
23	the shareholders, the directors, and the of-
24	ficers of the enterprise and conduct all
25	business of the enterprise:



1	"(ii) collect all obligations and money
2	due the enterprise;
3	"(iii) perform all functions of the en-
4	terprise in the name of the enterprise
5	which are consistent with the appointment
6	as conservator or receiver; and
7	"(iv) preserve and conserve the assets
8	and property of such enterprise.
9	"(C) Functions of officers, direc-
10	TORS, AND SHAREHOLDERS OF AN ENTER-
11	PRISE.—The Agency may, by regulation or
12	order, provide for the exercise of any function
13	by any stockholder, director, or officer of any
14	enterprise for which the Agency has been
15	named conservator or receiver.
16	"(D) POWERS AS CONSERVATOR.—The
17	Agency may, as conservator, take such action
18	as may be—
19	"(i) necessary to put the enterprise in
20	a sound and solvent condition; and
21	"(ii) appropriate to carry on the busi-
22	ness of the enterprise and preserve and
23	conserve the assets and property of the en-
24	terprise.



1	"(E) Additional powers as re-
2	CEIVER.—The Agency may, as receiver, place
3	the enterprise in liquidation and proceed to re-
4	alize upon the assets of the enterprise, having
5	due regard to the conditions of the housing fi-
6	nance market.
7	"(F) Organization of New Enter-
8	PRISES.—The Agency may, as receiver, orga-
9	nize a successor enterprise that will operate
10	pursuant to subsection (i).
11	"(G) Transfer of assets and liabil-
12	ITIES.—The Agency may, as conservator or re-
13	ceiver, transfer any asset or liability of the en-
14	terprise in default without any approval, assign-
15	ment, or consent with respect to such transfer.
16	"(H) Payment of valid obligations.—
17	The Agency, as conservator or receiver, shall, to
18	the extent of proceeds realized from the per-
19	formance of contracts or sale of the assets of an
20	enterprise, pay all valid obligations of the enter-
21	prise in accordance with the prescriptions and
22	limitations of this section.
23	"(I) Subpoena authority.—
24	"(i) In general.—



1	"(I) IN GENERAL.—The Agency
2	may, as conservator or receiver, and
3	for purposes of carrying out any
4	power, authority, or duty with respect
5	to an enterprise (including deter-
6	mining any claim against the enter-
7	prise and determining and realizing
8	upon any asset of any person in the
9	course of collecting money due the en-
10	terprise), exercise any power estab-
11	lished under section 1348.
12	"(II) Applicability of Law.—
13	The provisions of section 1348 shall
14	apply with respect to the exercise of
15	any power exercised under this sub-
16	paragraph in the same manner as
17	such provisions apply under that sec-
18	tion.
19	"(ii) Authority of director.—A
20	subpoena or subpoena duces tecum may be
21	issued under clause (i) only by, or with the
22	written approval of, the Director, or the
23	designee of the Director.
24	"(iii) Rule of construction.—This
25	subsection shall not be construed to limit



1	any rights that the Agency, in any capac-
2	ity, might otherwise have under section
3	1317 or 1379B.
4	"(J) Incidental powers.—The Agency
5	may, as conservator or receiver—
6	"(i) exercise all powers and authori-
7	ties specifically granted to conservators or
8	receivers, respectively, under this section,
9	and such incidental powers as shall be nec-
10	essary to carry out such powers; and
11	"(ii) take any action authorized by
12	this section, which the Agency determines
13	is in the best interests of the enterprise or
14	the Agency.
15	"(3) Authority of receiver to determine
16	CLAIMS.—
17	"(A) IN GENERAL.—The Agency may, as
18	receiver, determine claims in accordance with
19	the requirements of this subsection and any
20	regulations prescribed under paragraph (4).
21	"(B) Notice requirements.—The re-
22	ceiver, in any case involving the liquidation or
23	winding up of the affairs of a closed enterprise,
24	shall—



1	"(i) promptly publish a notice to the
2	creditors of the enterprise to present their
3	claims, together with proof, to the receiver
4	by a date specified in the notice which
5	shall be not less than 90 days after the
6	publication of such notice; and
7	"(ii) republish such notice approxi-
8	mately 1 month and 2 months, respec-
9	tively, after the publication under clause
10	(i).
11	"(C) Mailing required.—The receiver
12	shall mail a notice similar to the notice pub-
13	lished under subparagraph (B)(i) at the time of
14	such publication to any creditor shown on the
15	books of the enterprise—
16	"(i) at the last address of the creditor
17	appearing in such books; or
18	"(ii) upon discovery of the name and
19	address of a claimant not appearing on the
20	books of the enterprise within 30 days
21	after the discovery of such name and ad-
22	dress.
23	"(4) Rulemaking authority relating to
24	DETERMINATION OF CLAIMS.—Subject to subsection
25	(c), the Director may prescribe regulations regarding



1	the allowance or disallowance of claims by the re-
2	ceiver and providing for administrative determina-
3	tion of claims and review of such determination.
4	"(5) Procedures for determination of
5	CLAIMS.—
6	"(A) DETERMINATION PERIOD.—
7	"(i) In general.—Before the end of
8	the 180-day period beginning on the date
9	on which any claim against an enterprise is
10	filed with the Agency as receiver, the
11	Agency shall determine whether to allow or
12	disallow the claim and shall notify the
13	claimant of any determination with respect
14	to such claim.
15	"(ii) Extension of time.—The pe-
16	riod described in clause (i) may be ex-
17	tended by a written agreement between the
18	claimant and the Agency.
19	"(iii) Mailing of notice suffi-
20	CIENT.—The requirements of clause (i)
21	shall be deemed to be satisfied if the notice
22	of any determination with respect to any
23	claim is mailed to the last address of the
24	claimant which appears—



1	"(I) on the books of the enter-
2	prise;
3	"(II) in the claim filed by the
4	claimant; or
5	"(III) in documents submitted in
6	proof of the claim.
7	"(iv) Contents of notice of dis-
8	ALLOWANCE.—If any claim filed under
9	clause (i) is disallowed, the notice to the
10	claimant shall contain—
11	"(I) a statement of each reason
12	for the disallowance; and
13	"(II) the procedures available for
14	obtaining agency review of the deter-
15	mination to disallow the claim or judi-
16	cial determination of the claim.
17	"(B) ALLOWANCE OF PROVEN CLAIM.—
18	The receiver shall allow any claim received on
19	or before the date specified in the notice pub-
20	lished under paragraph (3)(B)(i) by the receiver
21	from any claimant which is proved to the satis-
22	faction of the receiver.
23	"(C) DISALLOWANCE OF CLAIMS FILED
24	AFTER END OF FILING PERIOD.—Claims filed
25	after the date specified in the notice published



1	under paragraph (3)(B)(i), or the date specified
2	under paragraph (3)(C), shall be disallowed and
3	such disallowance shall be final.
4	"(D) AUTHORITY TO DISALLOW CLAIMS.—
5	"(i) In general.—The receiver may
6	disallow any portion of any claim by a
7	creditor or claim of security, preference, or
8	priority which is not proved to the satisfac-
9	tion of the receiver.
10	"(ii) Payments to less than
11	FULLY SECURED CREDITORS.—In the case
12	of a claim of a creditor against an enter-
13	prise which is secured by any property or
14	other asset of such enterprise, the
15	receiver—
16	"(I) may treat the portion of
17	such claim which exceeds an amount
18	equal to the fair market value of such
19	property or other asset as an unse-
20	cured claim against the enterprise;
21	and
22	"(II) may not make any payment
23	with respect to such unsecured por-
24	tion of the claim other than in connec-

tion with the disposition of all claims



1	of unsecured creditors of the enter-
2	prise.
3	"(iii) Exceptions.—No provision of
4	this paragraph shall apply with respect
5	to—
6	"(I) any extension of credit from
7	any Federal Reserve Bank or the
8	United States Treasury; or
9	"(II) any security interest in the
10	assets of the enterprise securing any
11	such extension of credit.
12	"(E) No judicial review of deter-
13	MINATION PURSUANT TO SUBPARAGRAPH (D).—
14	No court may review the determination of the
15	Agency under subparagraph (D) to disallow a
16	claim.
17	"(F) Legal effect of filing.—
18	"(i) Statute of Limitation
19	TOLLED.—For purposes of any applicable
20	statute of limitations, the filing of a claim
21	with the receiver shall constitute a com-
22	mencement of an action.
23	"(ii) No prejudice to other ac-
24	TIONS.—Subject to paragraph (10), the fil-
25	ing of a claim with the receiver shall not



1	prejudice any right of the claimant to con-
2	tinue any action which was filed before the
3	date of the appointment of the receiver,
4	subject to the determination of claims by
5	the receiver.
6	"(6) Provision for Judicial Determination
7	OF CLAIMS.—
8	"(A) In general.—The claimant may file
9	suit on a claim (or continue an action com-
10	menced before the appointment of the receiver)
11	in the district or territorial court of the United
12	States for the district within which the prin-
13	cipal place of business of the enterprise is lo-
14	cated or the United States District Court for
15	the District of Columbia (and such court shall
16	have jurisdiction to hear such claim), before the
17	end of the 60-day period beginning on the ear-
18	lier of—
19	"(i) the end of the period described in
20	paragraph (5)(A)(i) with respect to any
21	claim against an enterprise for which the
22	Agency is receiver; or
23	"(ii) the date of any notice of dis-
24	allowance of such claim pursuant to para-
25	graph (5)(A)(i).



1	"(B) Statute of Limitations.—A claim
2	shall be deemed to be disallowed (other than
3	any portion of such claim which was allowed by
4	the receiver), and such disallowance shall be
5	final, and the claimant shall have no further
6	rights or remedies with respect to such claim,
7	if the claimant fails, before the end of the 60-
8	day period described under subparagraph (A),
9	to file suit on such claim (or continue an action
10	commenced before the appointment of the re-
11	ceiver).
12	"(7) Review of claims.—
13	"(A) OTHER REVIEW PROCEDURES.—
14	"(i) In General.—The Agency shall
15	establish such alternative dispute resolu-
16	tion processes as may be appropriate for
17	the resolution of claims filed under para-
18	graph $(5)(A)(i)$.
19	"(ii) Criteria.—In establishing alter-
20	native dispute resolution processes, the
21	Agency shall strive for procedures which
22	are expeditious, fair, independent, and low
23	cost.
24	"(iii) Voluntary binding or non-
25	BINDING PROCEDURES.—The Agency may



1	establish both binding and nonbinding
2	processes, which may be conducted by any
3	government or private party. All parties,
4	including the claimant and the Agency,
5	must agree to the use of the process in a
6	particular case.
7	"(B) Consideration of incentives.—
8	The Agency shall seek to develop incentives for
9	claimants to participate in the alternative dis-
10	pute resolution process.
11	"(8) Expedited determination of
12	CLAIMS.—
13	"(A) ESTABLISHMENT REQUIRED.—The
14	Agency shall establish a procedure for expedited
15	relief outside of the routine claims process es-
16	tablished under paragraph (5) for claimants
17	who—
18	"(i) allege the existence of legally
19	valid and enforceable or perfected security
20	interests in assets of any enterprise for
21	which the Agency has been appointed re-
22	ceiver; and
23	"(ii) allege that irreparable injury will
24	occur if the routine claims procedure is fol-
25	lowed.



1	"(B) Determination Period.—Before
2	the end of the 90-day period beginning on the
3	date any claim is filed in accordance with the
4	procedures established under subparagraph (A),
5	the Director shall—
6	"(i) determine—
7	"(I) whether to allow or disallow
8	such claim; or
9	"(II) whether such claim should
10	be determined pursuant to the proce-
11	dures established under paragraph
12	(5); and
13	"(ii) notify the claimant of the deter-
14	mination, and if the claim is disallowed,
15	provide a statement of each reason for the
16	disallowance and the procedure for obtain-
17	ing agency review or judicial determina-
18	tion.
19	"(C) Period for filing or renewing
20	SUIT.—Any claimant who files a request for ex-
21	pedited relief shall be permitted to file a suit,
22	or to continue a suit filed before the appoint-
23	ment of the receiver, seeking a determination of
24	the rights of the claimant with respect to such
25	security interest after the earlier of—



1	"(i) the end of the 90-day period be-
2	ginning on the date of the filing of a re-
3	quest for expedited relief; or
4	"(ii) the date the Agency denies the
5	claim.
6	"(D) STATUTE OF LIMITATIONS.—If an
7	action described under subparagraph (C) is not
8	filed, or the motion to renew a previously filed
9	suit is not made, before the end of the 30-day
10	period beginning on the date on which such ac-
11	tion or motion may be filed under subparagraph
12	(B), the claim shall be deemed to be disallowed
13	as of the end of such period (other than any
14	portion of such claim which was allowed by the
15	receiver), such disallowance shall be final, and
16	the claimant shall have no further rights or
17	remedies with respect to such claim.
18	"(E) Legal effect of filing.—
19	"(i) STATUTE OF LIMITATION
20	TOLLED.—For purposes of any applicable
21	statute of limitations, the filing of a claim
22	with the receiver shall constitute a com-
23	mencement of an action.
24	"(ii) No prejudice to other ac-
25	TIONS.—Subject to paragraph (10), the fil-



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the Agency unless such agreement is in writing.



1	"(C) Payment of dividends on
2	CLAIMS.—The receiver may, in the sole discre-
3	tion of the receiver, pay from the assets of the
4	enterprise dividends on proved claims at any
5	time, and no liability shall attach to the Agen-
6	cy, by reason of any such payment, for failure
7	to pay dividends to a claimant whose claim is
8	not proved at the time of any such payment.
9	"(D) Rulemaking authority of the
10	DIRECTOR.—The Director may prescribe such
11	rules, including definitions of terms, as the Di-
12	rector deems appropriate to establish a single
13	uniform interest rate for, or to make payments
14	of post-insolvency interest to creditors holding
15	proven claims against the receivership estates of
16	enterprises following satisfaction by the receiver
17	of the principal amount of all creditor claims.
18	"(10) Suspension of Legal Actions.—
19	"(A) In general.—After the appointment
20	of a conservator or receiver for an enterprise,
21	the conservator or receiver may, in any judicial
22	action or proceeding to which such enterprise is
23	or becomes a party, request a stay for a period



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not to exceed—

1	"(i) 45 days, in the case of any con-
2	servator; and
3	"(ii) 90 days, in the case of any re-
4	ceiver.
5	"(B) Grant of stay by all courts re-
6	QUIRED.—Upon receipt of a request by any
7	conservator or receiver under subparagraph (A)
8	for a stay of any judicial action or proceeding
9	in any court with jurisdiction of such action or
10	proceeding, the court shall grant such stay as
11	to all parties.
12	"(11) Additional rights and duties.—
13	"(A) PRIOR FINAL ADJUDICATION.—The
14	Agency shall abide by any final unappealable
15	judgment of any court of competent jurisdiction
16	which was rendered before the appointment of
17	the Agency as conservator or receiver.
18	"(B) Rights and remedies of conser-
19	VATOR OR RECEIVER.—In the event of any ap-
20	pealable judgment, the Agency as conservator
21	or receiver shall—
22	"(i) have all the rights and remedies
23	available to the enterprise (before the ap-
24	pointment of such conservator or receiver)



1	and the Agency, including removal to Fed-
2	eral court and all appellate rights; and
3	"(ii) not be required to post any bond
4	in order to pursue such remedies.
5	"(C) NO ATTACHMENT OR EXECUTION.—
6	No attachment or execution may issue by any
7	court upon assets in the possession of the re-
8	ceiver.
9	"(D) Limitation on Judicial Review.—
10	Except as otherwise provided in this subsection,
11	no court shall have jurisdiction over—
12	"(i) any claim or action for payment
13	from, or any action seeking a determina-
14	tion of rights with respect to, the assets of
15	any enterprise for which the Agency has
16	been appointed receiver; or
17	"(ii) any claim relating to any act or
18	omission of such enterprise or the Agency
19	as receiver.
20	"(E) Disposition of Assets.—In exer-
21	cising any right, power, privilege, or authority
22	as conservator or receiver in connection with
23	any sale or disposition of assets of an enterprise
24	for which the Agency has been appointed con-



1	servator or receiver, the Agency shall conduct
2	its operations in a manner which—
3	"(i) maximizes the net present value
4	return from the sale or disposition of such
5	assets;
6	"(ii) minimizes the amount of any loss
7	realized in the resolution of cases; and
8	"(iii) ensures adequate competition
9	and fair and consistent treatment of
10	offerors.
11	"(12) Statute of Limitations for actions
12	BROUGHT BY CONSERVATOR OR RECEIVER.—
13	"(A) In General.—Notwithstanding any
14	provision of any contract, the applicable statute
15	of limitations with regard to any action brought
16	by the Agency as conservator or receiver shall
17	be—
18	"(i) in the case of any contract claim,
19	the longer of—
20	"(I) the 6-year period beginning
21	on the date the claim accrues; or
22	"(II) the period applicable under
23	State law; and
24	"(ii) in the case of any tort claim, the
25	longer of—



1	"(I) the 3-year period beginning
2	on the date the claim accrues; or
3	"(II) the period applicable under
4	State law.
5	"(B) DETERMINATION OF THE DATE ON
6	WHICH A CLAIM ACCRUES.—For purposes of
7	subparagraph (A), the date on which the stat-
8	ute of limitations begins to run on any claim
9	described in such subparagraph shall be the
10	later of—
11	"(i) the date of the appointment of
12	the Agency as conservator or receiver; or
13	"(ii) the date on which the cause of
14	action accrues.
15	"(13) Revival of expired state causes of
16	ACTION.—
17	"(A) IN GENERAL.—In the case of any tort
18	claim described under subparagraph (B) for
19	which the statute of limitations applicable
20	under State law with respect to such claim has
21	expired not more than 5 years before the ap-
22	pointment of the Agency as conservator or re-
23	ceiver, the Agency may bring an action as con-
24	servator or receiver on such claim without re-



1	gard to the expiration of the statute of limita-
2	tion applicable under State law.
3	"(B) Claims described.—A tort claim
4	referred to under subparagraph (A) is a claim
5	arising from fraud, intentional misconduct re-
6	sulting in unjust enrichment, or intentional mis-
7	conduct resulting in substantial loss to the en-
8	terprise.
9	"(14) Accounting and recordkeeping re-
10	QUIREMENTS.—
11	"(A) IN GENERAL.—The Agency as conser-
12	vator or receiver shall, consistent with the ac-
13	counting and reporting practices and proce-
14	dures established by the Agency, maintain a ful
15	accounting of each conservatorship and receiv-
16	ership or other disposition of an enterprise in
17	default.
18	"(B) Annual accounting or report.—
19	With respect to each conservatorship or receiv-
20	ership, the Agency shall make an annual ac-
21	counting or report available to the Board, the
22	Comptroller General of the United States, the
23	Committee on Banking, Housing, and Urban

Affairs of the Senate, and the Committee on



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1	Financial Services of the House of Representa-
2	tives.
3	"(C) Availability of reports.—Any re-
4	port prepared under subparagraph (B) shall be
5	made available by the Agency upon request to
6	any shareholder of an enterprise or any member
7	of the public.
8	"(D) Recordkeeping requirement.—
9	After the end of the 6-year period beginning on
10	the date that the conservatorship or receiver-
11	ship is terminated by the Director, the Agency
12	may destroy any records of such enterprise
13	which the Agency, in the discretion of the Agen-
14	cy, determines to be unnecessary unless di-
15	rected not to do so by a court of competent ju-
16	risdiction or governmental agency, or prohibited
17	by law.
18	"(15) Fraudulent transfers.—
19	"(A) IN GENERAL.—The Agency, as con-
20	servator or receiver, may avoid a transfer of
21	any interest of an enterprise-affiliated party, or
22	any person who the conservator or receiver de-
23	termines is a debtor of the enterprise, in prop-
24	erty, or any obligation incurred by such party

or person, that was made within 5 years of the



1	date on which the Agency was appointed con-
2	servator or receiver, if such party or person vol-
3	untarily or involuntarily made such transfer or
4	incurred such liability with the intent to hinder,
5	delay, or defraud the enterprise, the Agency,
6	the conservator, or receiver.
7	"(B) RIGHT OF RECOVERY.—To the extent
8	a transfer is avoided under subparagraph (A),
9	the conservator or receiver may recover, for the
10	benefit of the enterprise, the property trans-
11	ferred, or, if a court so orders, the value of
12	such property (at the time of such transfer)
13	from—
14	"(i) the initial transferee of such
15	transfer or the enterprise-affiliated party
16	or person for whose benefit such transfer
17	was made; or
18	"(ii) any immediate or mediate trans-
19	feree of any such initial transferee.
20	"(C) RIGHTS OF TRANSFEREE OR OBLI-
21	GEE.—The conservator or receiver may not re-
22	cover under subparagraph (B) from—
23	"(i) any transferee that takes for
24	value, including satisfaction or securing of



1	a present or antecedent debt, in good faith;
2	or
3	"(ii) any immediate or mediate good
4	faith transferee of such transferee.
5	"(D) Rights under this paragraph.—
6	The rights under this paragraph of the conser-
7	vator or receiver described under subparagraph
8	(A) shall be superior to any rights of a trustee
9	or any other party (other than any party which
10	is a Federal agency) under title 11, United
11	States Code.
12	"(16) Attachment of assets and other in-
13	JUNCTIVE RELIEF.—Subject to paragraph (17), any
14	court of competent jurisdiction may, at the request
15	of the conservator or receiver, issue an order in ac-
16	cordance with Rule 65 of the Federal Rules of Civil
17	Procedure, including an order placing the assets of
18	any person designated by the Agency or such conser-
19	vator under the control of the court, and appointing
20	a trustee to hold such assets.
21	"(17) STANDARDS OF PROOF.—Rule 65 of the
22	Federal Rules of Civil Procedure shall apply with re-
23	spect to any proceeding under paragraph (16) with-
24	out regard to the requirement of such rule that the



1	applicant show that the injury, loss, or damage is ir-
2	reparable and immediate.
3	"(18) Treatment of claims arising from
4	BREACH OF CONTRACTS EXECUTED BY THE RE-
5	CEIVER OR CONSERVATOR.—
6	"(A) In General.—Notwithstanding any
7	other provision of this subsection, any final and
8	unappealable judgment for monetary damages
9	entered against a receiver or conservator for the
10	breach of an agreement executed or approved in
11	writing by such receiver or conservator after the
12	date of its appointment, shall be paid as an ad-
13	ministrative expense of the receiver or conser-
14	vator.
15	"(B) NO LIMITATION OF POWER.—Nothing
16	in this paragraph shall be construed to limit the
17	power of a receiver or conservator to exercise
18	any rights under contract or law, including to
19	terminate, breach, cancel, or otherwise dis-
20	continue such agreement.
21	"(19) General exceptions.—
22	"(A) Limitations.—The rights of a con-
23	servator or receiver appointed under this section
24	shall be subject to the limitations on the nowers

of a receiver under sections 402 through 407 of



1	the Federal Deposit Insurance Corporation Im-
2	provement Act of 1991 (12 U.S.C. 4402
3	through 4407).
4	"(B) Mortgages held in trust.—
5	"(i) In General.—Any mortgage,
6	pool of mortgages, or interest in a pool of
7	mortgages, held in trust, custodial, or
8	agency capacity by an enterprise for the
9	benefit of persons other than the enterprise
10	shall not be available to satisfy the claims
11	of creditors generally.
12	"(ii) Holding of mortgages.—Any
13	mortgage, pool of mortgages, or interest in
14	a pool of mortgages, described under
15	clause (i) shall be held by the conservator
16	or receiver appointed under this section for
17	the beneficial owners of such mortgage,
18	pool of mortgages, or interest in a pool of
19	mortgages in accordance with the terms of
20	the agreement creating such trust, custo-
21	dial, or other agency arrangement.
22	"(iii) Liability of receiver.—The
23	liability of a receiver appointed under this
24	section for damages shall, in the case of

any contingent or unliquidated claim relat-



1	ing to the mortgages held in trust, be esti-
2	mated in accordance set forth in the regu-
3	lations of the Director.
4	"(c) Priority of Expenses and Unsecured
5	CLAIMS.—
6	"(1) In general.—Unsecured claims against
7	an enterprise, or a receiver, that are proven to the
8	satisfaction of the receiver shall have priority in the
9	following order:
10	"(A) Administrative expenses of the re-
11	ceiver.
12	"(B) Any other general or senior liability
13	of the enterprise (which is not a liability de-
14	scribed under subparagraph (C) or (D).
15	"(C) Any obligation subordinated to gen-
16	eral creditors (which is not an obligation de-
17	scribed under subparagraph (D)).
18	"(D) Any obligation to shareholders or
19	members arising as a result of their status as
20	shareholder or members.
21	"(2) Creditors similarly situated.—All
22	creditors that are similarly situated under paragraph
23	(1) shall be treated in a similar manner.
24	"(3) Definition.—The term 'administrative
25	expenses of the receiver' shall include the actual,



1	necessary costs and expenses incurred by the re-
2	ceiver in preserving the assets of a failed enterprise
3	or liquidating or otherwise resolving the affairs of
4	the failed enterprise. Such expenses shall include ob-
5	ligations that are incurred by the receiver after ap-
6	pointment as receiver that the Director determines
7	are necessary and appropriate to facilitate the
8	smooth and orderly liquidation or other resolution of
9	the enterprise.
10	"(d) Provisions Relating to Contracts En-
11	TERED INTO BEFORE APPOINTMENT OF CONSERVATOR
12	OR RECEIVER.—
13	"(1) Authority to repudiate contracts.—
14	In addition to any other rights a conservator or re-
15	ceiver may have, the conservator or receiver for any
16	enterprise may disaffirm or repudiate any contract
17	or lease—
18	"(A) to which such enterprise is a party;
19	"(B) the performance of which the conser-
20	vator or receiver, in its sole discretion, deter-
21	mines to be burdensome; and
22	"(C) the disaffirmance or repudiation of
23	which the conservator or receiver determines, in
24	its sole discretion, will promote the orderly ad-

ministration of the affairs of the enterprise.



1	"(2) Timing of Repudiation.—The conser-
2	vator or receiver shall determine whether or not to
3	exercise the rights of repudiation under this sub-
4	section within a reasonable period following such ap-
5	pointment.
6	"(3) Claims for damages for repudi-
7	ATION.—
8	"(A) In general.—Except as otherwise
9	provided under subparagraph (C) and para-
10	graphs (4), (5), and (6), the liability of the con-
11	servator or receiver for the disaffirmance or re-
12	pudiation of any contract pursuant to para-
13	graph (1) shall be—
14	"(i) limited to actual direct compen-
15	satory damages; and
16	"(ii) determined as of—
17	"(I) the date of the appointment
18	of the conservator or receiver; or
19	"(II) in the case of any contract
20	or agreement referred to in paragraph
21	(8), the date of the disaffirmance or
22	repudiation of such contract or agree-
23	ment.
24	"(B) NO LIABILITY FOR OTHER DAM-
25	AGES.—For purposes of subparagraph (A), the



1	term 'actual direct compensatory damages' shall
2	not include—
3	"(i) punitive or exemplary damages;
4	"(ii) damages for lost profits or op-
5	portunity; or
6	"(iii) damages for pain and suffering.
7	"(C) Measure of damages for repudi-
8	ATION OF FINANCIAL CONTRACTS.—In the case
9	of any qualified financial contract or agreement
10	to which paragraph (8) applies, compensatory
11	damages shall be—
12	"(i) deemed to include normal and
13	reasonable costs of cover or other reason-
14	able measures of damages utilized in the
15	industries for such contract and agreement
16	claims; and
17	"(ii) paid in accordance with this sub-
18	section and subsection (e), except as other-
19	wise specifically provided in this section.
20	"(4) Leases under which the enterprise
21	IS THE LESSEE.—
22	"(A) In general.—If the conservator or
23	receiver disaffirms or repudiates a lease under
24	which the enterprise was the lessee, the conser-
25	vator or receiver shall not be liable for any



1	damages (other than damages determined
2	under subparagraph (B)) for the disaffirmance
3	or repudiation of such lease.
4	"(B) Payments of Rent.—Notwith-
5	standing subparagraph (A), the lessor under a
6	lease to which that subparagraph applies
7	shall—
8	"(i) be entitled to the contractual rent
9	accruing before the later of the date—
10	"(I) the notice of disaffirmance
11	or repudiation is mailed; or
12	$"(\Pi)$ the disaffirmance or repudi-
13	ation becomes effective, unless the les-
14	sor is in default or breach of the
15	terms of the lease;
16	"(ii) have no claim for damages under
17	any acceleration clause or other penalty
18	provision in the lease; and
19	"(iii) have a claim for any unpaid
20	rent, subject to all appropriate offsets and
21	defenses, due as of the date of the appoint-
22	ment, which shall be paid in accordance
23	with this subsection and subsection (e).
24	"(5) Leases under which the enterprise
25	IS THE LESSOR.—



1	"(A) In general.—If the conservator or
2	receiver repudiates an unexpired written lease
3	of real property of the enterprise under which
4	the enterprise is the lessor and the lessee is not,
5	as of the date of such repudiation, in default,
6	the lessee under such lease may either—
7	"(i) treat the lease as terminated by
8	such repudiation; or
9	"(ii) remain in possession of the lease-
10	hold interest for the balance of the term of
11	the lease, unless the lessee defaults under
12	the terms of the lease after the date of
13	such repudiation.
14	"(B) Provisions applicable to lessee
15	REMAINING IN POSSESSION.—If any lessee
16	under a lease described under subparagraph (A)
17	remains in possession of a leasehold interest
18	under clause (ii) of such subparagraph—
19	"(i) the lessee—
20	"(I) shall continue to pay the
21	contractual rent pursuant to the
22	terms of the lease after the date of
23	the repudiation of such lease; and
24	"(II) may offset against any rent
25	payment which accrues after the date



1	of the repudiation of the lease, and
2	any damages which accrue after such
3	date due to the nonperformance of
4	any obligation of the enterprise under
5	the lease after such date; and
6	"(ii) the conservator or receiver shall
7	not be liable to the lessee for any damages
8	arising after such date as a result of the
9	repudiation other than the amount of any
10	offset allowed under clause $(i)(II)$.
11	"(6) Contracts for the sale of real
12	PROPERTY.—
13	"(A) In general.—If the conservator or
14	receiver repudiates any contract for the sale of
15	real property and the purchaser of such real
16	property under such contract is in possession,
17	and is not, as of the date of such repudiation,
18	in default, such purchaser may either—
19	"(i) treat the contract as terminated
20	by such repudiation; or
21	"(ii) remain in possession of such real
22	property.
23	"(B) Provisions applicable to pur-
24	CHASER REMAINING IN POSSESSION.—If any
25	nurchaser of real property under any contract



1	described under subparagraph (A) remains in
2	possession of such property under clause (ii) of
3	such subparagraph—
4	"(i) the purchaser—
5	"(I) shall continue to make all
6	payments due under the contract after
7	the date of the repudiation of the con-
8	tract; and
9	"(II) may offset against any such
10	payments any damages which accrue
11	after such date due to the non-
12	performance (after such date) of any
13	obligation of the enterprise under the
14	contract; and
15	"(ii) the conservator or receiver
16	shall—
17	"(I) not be liable to the pur-
18	chaser for any damages arising after
19	such date as a result of the repudi-
20	ation other than the amount of any
21	offset allowed under clause (i)(II);
22	"(II) deliver title to the pur-
23	chaser in accordance with the provi-
24	sions of the contract; and



1	"(III) have no obligation under
2	the contract other than the perform-
3	ance required under subclause (II).
4	"(C) Assignment and sale allowed.—
5	"(i) In general.—No provision of
6	this paragraph shall be construed as lim-
7	iting the right of the conservator or re-
8	ceiver to assign the contract described
9	under subparagraph (A), and sell the prop-
10	erty subject to the contract and the provi-
11	sions of this paragraph.
12	"(ii) No liability after assign-
13	MENT AND SALE.—If an assignment and
14	sale described under clause (i) is con-
15	summated, the conservator or receiver
16	shall have no further liability under the
17	contract described under subparagraph
18	(A), or with respect to the real property
19	which was the subject of such contract.
20	"(7) Provisions applicable to service con-
21	TRACTS.—
22	"(A) Services performed before ap-
23	POINTMENT.—In the case of any contract for
24	services between any person and any enterprise
25	for which the Agency has been appointed con-



1	servator or receiver, any claim of such person
2	for services performed before the appointment
3	of the conservator or the receiver shall be—
4	"(i) a claim to be paid in accordance
5	with subsections (b) and (e); and
6	"(ii) deemed to have arisen as of the
7	date the conservator or receiver was ap-
8	pointed.
9	"(B) Services performed after ap-
10	POINTMENT AND PRIOR TO REPUDIATION.—If,
11	in the case of any contract for services de-
12	scribed under subparagraph (A), the conser-
13	vator or receiver accepts performance by the
14	other person before the conservator or receiver
15	makes any determination to exercise the right
16	of repudiation of such contract under this
17	section—
18	"(i) the other party shall be paid
19	under the terms of the contract for the
20	services performed; and
21	"(ii) the amount of such payment
22	shall be treated as an administrative ex-
23	pense of the conservatorship or receiver-
24	ship.



1	"(C) ACCEPTANCE OF PERFORMANCE NO
2	BAR TO SUBSEQUENT REPUDIATION.—The ac-
3	ceptance by any conservator or receiver of serv-
4	ices referred to under subparagraph (B) in con-
5	nection with a contract described in such sub-
6	paragraph shall not affect the right of the con-
7	servator or receiver to repudiate such contract
8	under this section at any time after such per-
9	formance.
10	"(8) CERTAIN QUALIFIED FINANCIAL CON-
11	TRACTS.—
12	"(A) RIGHTS OF PARTIES TO CON-
13	TRACTS.—Subject to paragraph (10) and not-
14	withstanding any other provision of this Act
15	any other Federal law, or the law of any State
16	no person shall be stayed or prohibited from
17	exercising—
18	"(i) any right to cause the termi-
19	nation or liquidation of any qualified finan-
20	cial contract with an enterprise that arises
21	upon the appointment of the Agency as re-
22	ceiver for such enterprise at any time after
23	such appointment;



1	"(ii) any right under any security ar-
2	rangement relating to any contract or
3	agreement described in clause (i); or
4	"(iii) any right to offset or net out
5	any termination value, payment amount, or
6	other transfer obligation arising under or
7	in connection with 1 or more contracts and
8	agreements described in clause (i), includ-
9	ing any master agreement for such con-
10	tracts or agreements.
11	"(B) Applicability of other provi-
12	SIONS.—Paragraphs (10) and (12) of sub-
13	section (b) shall apply in the case of any judi-
14	cial action or proceeding brought against any
15	receiver referred to under subparagraph (A), or
16	the enterprise for which such receiver was ap-
17	pointed, by any party to a contract or agree-
18	ment described under subparagraph (A)(i) with
19	such enterprise.
20	"(C) CERTAIN TRANSFERS NOT AVOID-
21	ABLE.—
22	"(i) In General.—Notwithstanding
23	paragraph (11), the Agency, whether act-
24	ing as such or as conservator or receiver of
25	an enterprise, may not avoid any transfer

an enterprise, may not avoid any transfer



1	of money or other property in connection
2	with any qualified financial contract with
3	an enterprise.
4	"(ii) Exception for certain
5	TRANSFERS.—Clause (i) shall not apply to
6	any transfer of money or other property in
7	connection with any qualified financial con-
8	tract with an enterprise if the Agency de-
9	termines that the transferee had actual in-
10	tent to hinder, delay, or defraud such en-
11	terprise, the creditors of such enterprise,
12	or any conservator or receiver appointed
13	for such enterprise.
14	"(D) CERTAIN CONTRACTS AND AGREE-
15	MENTS DEFINED.—In this subsection:
16	"(i) Qualified financial con-
17	TRACT.—The term 'qualified financial con-
18	tract' means any securities contract, com-
19	modity contract, forward contract, repur-
20	chase agreement, swap agreement, and any
21	similar agreement that the Agency deter-
22	mines by regulation to be a qualified finan-
23	cial contract for purposes of this para-
24	graph.



1	"(ii) Securities contract.—The
2	term 'securities contract' has the meaning
3	given to such term under section 741 of
4	title 11, United States Code, except that
5	the term 'security' (as used in such sec-
6	tion) shall be deemed to include any mort-
7	gage loan, any mortgage-related security
8	(as defined in section 3(a)(41) of the Secu-
9	rities Exchange Act of 1934), and any in-
10	terest in any mortgage loan or mortgage-
11	related security, and does not include any
12	participation in a commercial mortgage
13	loan.
14	"(iii) Commodity contract.—The
15	term 'commodity contract' has the mean-
16	ing given to such term in section 761 of
17	title 11, United States Code.
18	"(iv) FORWARD CONTRACT.—The
19	term 'forward contract' has the meaning
20	given to such term in section 101 of title
21	11, United States Code.
22	"(v) Repurchase agreement.—The
23	term 'repurchase agreement' has the mean-
24	ing given to such term in section 101 of

title 11, the United States Code, except



agreement,

swap

1	that the items (as described in such sec-
2	tion) which may be subject to any such
3	agreement shall be deemed to include
4	mortgage-related securities (as such term
5	is defined in section 3(a)(41) of the Securi-
6	ties Exchange Act of 1934), any mortgage
7	loan, and any interest in any mortgage
8	loan and does not include any participation
9	in a commercial mortgage loan unless the
10	Agency determines by regulation, resolu-
11	tion, or order to include any such partici-
12	pation within the meaning of such term.
13	"(vi) SWAP AGREEMENT.—The term
14	'swap agreement'—
15	"(I) means any agreement, in-
16	cluding the terms and conditions in-
17	corporated by reference in any such
18	agreement, which is a rate swap
19	agreement, basis swap, commodity
20	swap, forward rate agreement, inter-
21	est rate future, interest rate option
22	purchased, forward foreign exchange
23	agreement, rate cap agreement, rate
24	floor agreement, rate collar agree-



25

ment,

currency

1	cross-currency rate swap agreement,
2	currency future, or currency option
3	purchased or any other similar agree-
4	ment; and
5	"(II) includes any combination of
6	such agreements and any option to
7	enter into any such agreement.
8	"(vii) Treatment of master
9	AGREEMENT AS 1 QUALIFIED FINANCIAL
10	CONTRACT.—Any master agreement for
11	any agreements described under this sub-
12	paragraph, together with all supplements
13	to such master agreement, shall be treated
14	as 1 qualified financial contract.
15	"(viii) Transfer.—The term 'trans-
16	fer' has the meaning given to such term in
17	section 101 of title 11, United States
18	Code.
19	"(E) CERTAIN PROTECTIONS IN EVENT OF
20	APPOINTMENT OF CONSERVATOR.—Notwith-
21	standing any other provision of this Act (other
22	than paragraph (12) of this subsection), any
23	other Federal law, or the law of any State, no
24	person shall be stayed or prohibited from
25	exercising—



1	"(i) any right such person has to
2	cause the termination, liquidation, or accel-
3	eration of any qualified financial contract
4	with an enterprise in a conservatorship
5	based upon a default under such financial
6	contract which is enforceable under appli-
7	cable noninsolvency law;
8	"(ii) any right under any security ar-
9	rangement relating to such qualified finan-
10	cial contracts; or
11	"(iii) any right to offset or net out
12	any termination values, payment amounts,
13	or other transfer obligations arising under
14	or in connection with such qualified finan-
15	cial contracts.
16	"(9) Transfer of qualified financial con-
17	TRACTS.—In making any transfer of assets or liabil-
18	ities of an enterprise in default which includes any
19	qualified financial contract, the conservator or re-
20	ceiver for such enterprise shall either—
21	"(A) transfer to 1 person—
22	"(i) all qualified financial contracts
23	between—
24	"(I) any person (or any affiliate
25	of such person); and



1	"(II) the enterprise in default;
2	"(ii) all claims of such person (or any
3	affiliate of such person) against such en-
4	terprise under any such contract (other
5	than any claim which, under the terms of
6	any such contract, is subordinated to the
7	claims of general unsecured creditors of
8	such enterprise);
9	"(iii) all claims of such enterprise
10	against such person (or any affiliate of
11	such person) under any such contract; and
12	"(iv) all property securing any claim
13	described in clause (ii) or (iii) under any
14	such contract; or
15	"(B) transfer none of the financial con-
16	tracts, claims, or property referred to under
17	subparagraph (A) (with respect to such person
18	and any affiliate of such person).
19	"(10) Notification of transfer.—
20	"(A) IN GENERAL.—If—
21	"(i) the conservator or receiver for an
22	enterprise in default makes any transfer of
23	the assets and liabilities of such enterprise,
24	and



1	"(ii) the transfer includes any quali-
2	fied financial contract,
3	the conservator or receiver shall use best efforts
4	to notify any person who is a party to any such
5	contract of such transfer by 12 p.m. (noon)
6	(Eastern Standard Time) on the business day
7	following such transfer.
8	"(B) Business day defined.—For pur-
9	poses of this paragraph, the term 'business day'
10	means any day other than any Saturday, Sun-
11	day, or any day on which either the New York
12	Stock Exchange or the Federal Reserve Bank
13	of New York is closed.
14	"(11) CERTAIN SECURITY INTERESTS NOT
15	Avoidable.—No provision of this subsection shall
16	be construed as permitting the avoidance of any le-
17	gally enforceable or perfected security interest in any
18	of the assets of any enterprise, except where such an
19	interest is taken in contemplation of the insolvency
20	of the enterprise, or with the intent to hinder, delay,
21	or defraud the enterprise or the creditors of such en-
22	terprise.
23	"(12) Authority to enforce contracts.—
24	"(A) In general.—Notwithstanding any
25	provision of a contract providing for termi-



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1	nation, default, acceleration, or exercise of
2	rights upon, or solely by reason of, insolvency
3	or the appointment of a conservator or receiver,
4	the conservator or receiver may enforce any
5	contract, other than a contract for director's or
6	officer's liability or an enterprise bond, entered
7	into by the enterprise.
8	"(B) CERTAIN RIGHTS NOT AFFECTED.—
9	No provision of this paragraph may be con-
10	strued as impairing or affecting any right of the
11	conservator or receiver to enforce or recover
12	under a director's or officer's liability insurance
13	contract or enterprise bond under other applica-
14	ble law.
15	"(C) Consent requirement.—
16	"(i) In general.—Except as other-
17	wise provided under this section, no person
18	may exercise any right or power to termi-
19	nate, accelerate, or declare a default under
20	any contract to which an enterprise is a
21	party, or to obtain possession of or exercise
22	control over any property of the enterprise,
23	or affect any contractual rights of the en-

terprise, without the consent of the conser-



1	vator or receiver, as appropriate, for a pe-
2	riod of—
3	"(I) 45 days after the date of ap-
4	pointment of a conservator; or
5	"(II) 90 days after the date of
6	appointment of a receiver.
7	"(ii) Exceptions.—This subpara-
8	graph shall—
9	"(I) not apply to a director's or
10	officer's liability insurance contract;
11	"(II) not apply to the rights of
12	parties to certain qualified financial
13	contracts under subsection (d)(8); and
14	"(III) not be construed as per-
15	mitting the conservator or receiver to
16	fail to comply with otherwise enforce-
17	able provisions of such contracts.
18	"(e) Valuation of Claims in Default.—
19	"(1) IN GENERAL.—Notwithstanding any other
20	provision of Federal law or the law of any State, and
21	regardless of the method which the Agency deter-
22	mines to utilize with respect to an enterprise in de-
23	fault or in danger of default, including transactions
24	authorized under subsection (i), this subsection shall
25	govern the rights of the creditors of such enterprise.



1	"(2) Maximum liability.—The maximum li-
2	ability of the Agency, acting as receiver or in any
3	other capacity, to any person having a claim against
4	the receiver or the enterprise for which such receiver
5	is appointed shall equal the lesser of—
6	"(A) the amount such claimant would have
7	received if the Agency had liquidated the assets
8	and liabilities of such enterprise without exer-
9	cising the authority of the Agency under sub-
10	section (i) of this section; or
11	"(B) the amount of proceeds realized from
12	the performance of contracts or sale of the as-
13	sets of the enterprise.
14	"(f) Limitation on Court Action.—Except as
15	provided in this section or at the request of the Director
16	no court may take any action to restrain or affect the exer-
17	cise of powers or functions of the Agency as a conservator
18	or a receiver.
19	"(g) Liability of Directors and Officers.—
20	"(1) In general.—A director or officer of an
21	enterprise may be held personally liable for mone-
22	tary damages in any civil action by, on behalf of, or
23	at the request or direction of the Agency, which ac-
24	tion is prosecuted wholly or partially for the benefit
25	of the Agency—



1	"(A) acting as conservator or receiver of
2	such enterprise, or
3	"(B) acting based upon a suit, claim, or
4	cause of action purchased from, assigned by, or
5	otherwise conveyed by such receiver or conser-
6	vator,
7	for gross negligence, including any similar conduct
8	or conduct that demonstrates a greater disregard of
9	a duty of care (than gross negligence) including in-
10	tentional tortious conduct, as such terms are defined
11	and determined under applicable State law.
12	"(2) No limitation.—Nothing in this para-
13	graph shall impair or affect any right of the Agency
14	under other applicable law.
15	"(h) Damages.—In any proceeding related to any
16	claim against a director, officer, employee, agent, attorney,
17	accountant, appraiser, or any other party employed by or
18	providing services to an enterprise, recoverable damages
19	determined to result from the improvident or otherwise
20	improper use or investment of any assets of the enterprise
21	shall include principal losses and appropriate interest.
22	"(i) Limited-Life Enterprise.—
23	"(1) Organization.—
24	"(A) Purpose.—If an enterprise is in de-
25	fault, or if the Agency anticipates that an en-



1	terprise will default, the Agency may organize a
2	limited-life enterprise with those powers and at-
3	tributes of the enterprise in default or in dan-
4	ger of default that the Director determines nec-
5	essary, subject to the provisions of this sub-
6	section. The Director shall grant a temporary
7	charter to the limited-life enterprise, and the
8	limited-life enterprise shall operate subject to
9	that charter.
10	"(B) Authorities.—Upon the creation of
11	a limited-life enterprise under subparagraph
12	(A), the limited-life enterprise may—
13	"(i) assume such liabilities of the en-
14	terprise that is in default or in danger of
15	default as the Agency may, in its discre-
16	tion, determine to be appropriate, provided
17	that the liabilities assumed shall not exceed
18	the amount of assets of the limited-life en-
19	terprise;
20	"(ii) purchase such assets of the en-
21	terprise that is in default, or in danger of
22	default, as the Agency may, in its discre-
23	tion, determine to be appropriate; and
24	"(iii) perform any other temporary
25	function which the Agency may, in its dis-



1	cretion, prescribe in accordance with this
2	section.
3	"(2) Charter.—
4	"(A) Conditions.—The Agency may
5	grant a temporary charter if the Agency deter-
6	mines that the continued operation of the enter-
7	prise in default or in danger of default is in the
8	best interest of the national economy and the
9	housing markets.
10	"(B) Limited-life enterprise treated
11	AS BEING IN DEFAULT FOR CERTAIN PUR-
12	POSES.—A limited-life enterprise shall be treat-
13	ed as an enterprise in default at such times and
14	for such purposes as the Agency may, in its dis-
15	cretion, determine.
16	"(C) Management.—A limited-life enter-
17	prise, upon the granting of its charter, shall be
18	under the management of a board of directors
19	consisting of not fewer than 5 nor more than
20	10 members appointed by the Agency.
21	"(D) BYLAWS.—The board of directors of
22	a limited-life enterprise shall adopt such bylaws
23	as may be approved by the Agency.
24	"(3) Capital Stock.—No capital stock need
25	be paid into a limited-life enterprise by the Agency.



1	"(4) Investments.—Funds of a limited-life
2	enterprise shall be kept on hand in cash, invested in
3	obligations of the United States or obligations guar-
4	anteed as to principal and interest by the United
5	States, or deposited with the Agency, or any Federal
6	Reserve bank.
7	"(5) Exempt status.—Notwithstanding any
8	other provision of Federal or State law, the limited-
9	life enterprise, its franchise, property, and income
10	shall be exempt from all taxation now or hereafter
11	imposed by the United States, by any territory, de-
12	pendency, or possession thereof, or by any State,
13	county, municipality, or local taxing authority.
14	"(6) Other exemptions.—When acting as a
15	receiver, the following provisions shall apply with re-
16	spect to the Agency:
17	"(A) The Agency, including its franchise,
18	its capital, reserves, and surplus, and its in-
19	come, shall be exempt from all taxation imposed
20	by any State, country, municipality, or local
21	taxing authority, except that any real property
22	of the Agency shall be subject to State, terri-
23	torial, county, municipal, or local taxation to
24	the same extent according to its value as other

real property is taxed, except that, notwith-



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1	standing the failure of any person to challenge
2	an assessment under State law of the value of
3	such property, and the tax thereon, shall be de-
4	termined as of the period for which such tax is
5	imposed.
6	"(B) No property of the Agency shall be
7	subject to levy, attachment, garnishment, fore-
8	closure, or sale without the consent of the
9	Agency, nor shall any involuntary lien attach to
10	the property of the Agency.
11	"(C) The Agency shall not be liable for any
12	amounts in the nature of penalties or fines, in-
13	cluding those arising from the failure of any
14	person to pay any real property, personal prop-
15	erty, probate, or recording tax or any recording
16	or filing fees when due.
17	"(7) Winding up.—
18	"(A) In general.—Subject to subpara-
19	graph (B), unless Congress authorizes the sale
20	of the capital stock of the limited-life enter-
21	prise, not later than 2 years after the date of
22	its organization, the Agency shall wind up the
23	affairs of the limited-life enterprise.
24	"(B) Extension.—The Director may, in

the discretion of the Director, extend the status



1	of the limited-life enterprise for 3 additional 1-
2	year periods.
3	"(8) Transfer of assets and liabilities.—
4	"(A) In general.—
5	"(i) Transfer of assets and li-
6	ABILITIES.—The Agency, as receiver, may
7	transfer any assets and liabilities of an en-
8	terprise in default, or in danger of default,
9	to the limited-life enterprise in accordance
10	with paragraph (1).
11	"(ii) Subsequent transfers.—At
12	any time after a charter is transferred to
13	a limited-life enterprise, the Agency, as re-
14	ceiver, may transfer any assets and liabil-
15	ities of such enterprise in default, or in
16	danger in default, as the Agency may, in
17	its discretion, determine to be appropriate
18	in accordance with paragraph (1).
19	"(iii) Effective without ap-
20	PROVAL.—The transfer of any assets or li-
21	abilities of an enterprise in default, or in
22	danger of default, transferred to a limited-
23	life enterprise shall be effective without
24	any further approval under Federal or



1	State law, assignment, or consent with re-
2	spect thereto.
3	"(9) Proceeds.—To the extent that available
4	proceeds from the limited-life enterprise exceed
5	amounts required to pay obligations, such proceeds
6	may be paid to the enterprise in default, or in dan-
7	ger of default.
8	"(10) Powers of Limited-Life enter-
9	PRISES.—
10	"(A) IN GENERAL.—Each limited-life en-
11	terprise created under this subsection shall have
12	all corporate powers of, and be subject to the
13	same provisions of law as, the enterprise in de-
14	fault or in danger of default to which it relates,
15	except that—
16	"(i) the Agency may—
17	"(I) remove the directors of a
18	limited-life enterprise; and
19	"(II) fix the compensation of
20	members of the board of directors and
21	senior management, as determined by
22	the Agency in its discretion, of a lim-
23	ited-life enterprise;
24	"(ii) the Agency may indemnify the
25	representatives for purposes of paragraph



1	(1)(B), and the directors, officers, employ-
2	ees, and agents of a limited-life enterprise
3	on such terms as the Agency determines to
4	be appropriate; and
5	"(iii) the board of directors of a lim-
6	ited-life enterprise—
7	"(I) shall elect a chairperson who
8	may also serve in the position of chief
9	executive officer, except that such per-
10	son shall not serve either as chair-
11	person or as chief executive officer
12	without the prior approval of the
13	Agency; and
14	"(II) may appoint a chief execu-
15	tive officer who is not also the chair-
16	person, except that such person shall
17	not serve as chief executive officer
18	without the prior approval of the
19	Agency.
20	"(B) STAY OF JUDICIAL ACTION.—Any ju-
21	dicial action to which a limited-life enterprise
22	becomes a party by virtue of its acquisition of
23	any assets or assumption of any liabilities of an
24	enterprise in default shall be stayed from fur-
25	ther proceedings for a period of up to 45 days



1	at the request of the limited-life enterprise.
2	Such period may be modified upon the consent
3	of all parties.
4	"(11) No federal status.—
5	"(A) AGENCY STATUS.—A limited-life en-
6	terprise is not an agency, establishment, or in-
7	strumentality of the United States.
8	"(B) Employee status.—Representa-
9	tives for purposes of paragraph (1)(B), interim
10	directors, directors, officers, employees, or
11	agents of a limited-life enterprise are not, solely
12	by virtue of service in any such capacity, offi-
13	cers or employees of the United States. Any
14	employee of the Agency or of any Federal in-
15	strumentality who serves at the request of the
16	Agency as a representative for purposes of
17	paragraph (1)(B), interim director, director, of-
18	ficer, employee, or agent of a limited-life enter-
19	prise shall not—
20	"(i) solely by virtue of service in any
21	such capacity lose any existing status as
22	an officer or employee of the United States
23	for purposes of title 5, United States Code,
24	or any other provision of law; or



1	"(ii) receive any salary or benefits for
2	service in any such capacity with respect to
3	a limited-life enterprise in addition to such
4	salary or benefits as are obtained through
5	employment with the Agency or such Fed-
6	eral instrumentality.
7	"(j) Prohibition of Charter Revocation.—In
8	no case may a receiver appointed pursuant to this section
9	revoke, annul, or terminate the charter of an enterprise
10	"(k) Obtaining Credit by a Limited-Life En-
11	TERPRISE.—
12	"(1) In general.—The limited-life enterprise
13	may obtain unsecured credit and incur unsecured
14	debt in the ordinary course of business.
15	"(2) Inability to obtain credit.—If the
16	limited-life enterprise is unable to obtain unsecured
17	credit the Director may authorize the obtaining of
18	credit or the incurring of debt—
19	"(A) with priority over any or all adminis-
20	trative expenses;
21	"(B) secured by a lien on property that is
22	not otherwise subject to a lien; or
23	"(C) secured by a junior lien on property
24	that is subject to a lien.
25	"(3) Limitations.—



1	"(A) IN GENERAL.—The Director, after
2	notice and a hearing, may authorize the obtain-
3	ing of credit or the incurring of debt secured by
4	a senior or equal lien on property that is sub-
5	ject to a lien (other than mortgages that
6	collateralize the mortgage-backed securities
7	issued or guaranteed by the enterprise) only
8	if—
9	"(i) the limited-life enterprise is un-
10	able to obtain such credit otherwise; and
11	"(ii) there is adequate protection of
12	the interest of the holder of the lien on the
13	property which such senior or equal lien is
14	proposed to be granted.
15	"(B) Burden of proof.—In any hearing
16	under this subsection, the Director has the bur-
17	den of proof on the issue of adequate protec-
18	tion.
19	"(4) Affect on debts and liens.—The re-
20	versal or modification on appeal of an authorization
21	under this subsection to obtain credit or incur debt,
22	or of a grant under this section of a priority or a
23	lien, does not affect the validity of any debt so in-
24	curred, or any priority or lien so granted, to an enti-

ty that extended such credit in good faith, whether



1	or not such entity knew of the pendency of the ap-
2	peal, unless such authorization and the incurring of
3	such debt, or the granting of such priority or lien,
4	were stayed pending appeal.".
5	(b) Federal Home Loan Banks.—Section 26 of
6	the Federal Home Loan Bank Act (12 U.S.C. 1446) is
7	amended—
8	(1) by inserting "(a)" before "Whenever";
9	(2) in the first sentence, by inserting "or pursu-
10	ant to a determination and notice under section
11	1368(d) of the Federal Housing Enterprises Finan-
12	cial Safety and Soundness Act of 1992 that a Fed-
13	eral home loan bank is critically undercapitalized,"
14	after "such action,"; and
15	(3) by adding at the end the following new sub-
16	section:
17	"(b) The Director shall, by regulation, provide for the
18	authority, procedures, and conditions in liquidating and
19	reorganizing critically undercapitalized Federal home loan
20	banks pursuant to subsection (a), taking due consideration
21	of the authorities, procedures, and conditions established
22	under section 1367 of the Federal Housing Enterprises
23	Financial Safety and Soundness Act of 1992, with respect

24 to the enterprises, with such modifications as the Director



1	determines to be appropriate to reflect the difference in
2	operations between the banks and the enterprises.".
3	(c) Conforming Amendments.—Subtitle B of title
4	XIII of the Housing and Community Development Act of
5	1992 is amended by striking sections 1369 (12 U.S.C.
6	4619), 1369A (12 U.S.C. 4620), and 1369B (12 U.S.C.
7	4621)
8	SEC. 145. CONFORMING AMENDMENTS.
9	Subtitle B of title XIII of the Housing and Commu-
10	nity Development Act of 1992 (42 U.S.C. 4611 et seq.),
11	as amended by the preceding provisions of this Act, is fur-
12	ther amended——
13	(1) in sections 1365 (12 U.S.C. 4615) through
14	1369D (12 U.S.C. 4623), but not including section
15	1367 (12 U.S.C. 4617) as added by section 144 of
16	this Act—
17	(A) by striking "An enterprise" each place
18	such term appears and inserting "A regulated
19	entity";
20	(B) by striking "an enterprise" each place
21	such term appears and inserting "a regulated
22	entity"; and
23	(C) by striking "the enterprise" each place
24	such term appears and inserting "the regulated
25	entity";



1	(2) in section 1366(d) (12 U.S.C. 4616(d)), by
2	striking "the enterprises" and inserting "the regu-
3	lated entities"
4	(3) in section 1368(d) (12 U.S.C. 4618(d)), by
5	striking "Committee on Banking, Finance and
6	Urban Affairs" and inserting "Committee on Finan-
7	cial Services"; and
8	(4) in section 1369C(c) (12 U.S.C. 4622(c)), by
9	striking "any enterprise" and inserting "any regu-
10	lated entity".
11	Subtitle D—Enforcement Actions
12	SEC. 161. CEASE-AND-DESIST PROCEEDINGS.
13	Section 1371 of the Housing and Community Devel-
13 14	Section 1371 of the Housing and Community Development Act of 1992 (12 U.S.C. 4631) is amended—
	· · · · · · · · · · · · · · · · · · ·
14	opment Act of 1992 (12 U.S.C. 4631) is amended—
14 15	opment Act of 1992 (12 U.S.C. 4631) is amended— (1) by striking subsections (a) and (b) and in-
141516	opment Act of 1992 (12 U.S.C. 4631) is amended— (1) by striking subsections (a) and (b) and inserting the following new subsections:
14 15 16 17	opment Act of 1992 (12 U.S.C. 4631) is amended— (1) by striking subsections (a) and (b) and inserting the following new subsections: "(a) Issuance for Unsafe or Unsound Prac-
14 15 16 17 18	opment Act of 1992 (12 U.S.C. 4631) is amended— (1) by striking subsections (a) and (b) and inserting the following new subsections: "(a) Issuance for Unsafe or Unsound Practices and Violations of Rules or Laws.—If, in the
14 15 16 17 18	opment Act of 1992 (12 U.S.C. 4631) is amended— (1) by striking subsections (a) and (b) and inserting the following new subsections: "(a) Issuance for Unsafe or Unsound Practices and Violations of Rules or Laws.—If, in the opinion of the Director, a regulated entity or any regulated
14 15 16 17 18 19 20	opment Act of 1992 (12 U.S.C. 4631) is amended— (1) by striking subsections (a) and (b) and inserting the following new subsections: "(a) Issuance for Unsafe or Unsound Practices and Violations of Rules or Laws.—If, in the opinion of the Director, a regulated entity or any regulated entity-affiliated party is engaging or has engaged, or the
14 15 16 17 18 19 20 21	opment Act of 1992 (12 U.S.C. 4631) is amended— (1) by striking subsections (a) and (b) and inserting the following new subsections: "(a) Issuance for Unsafe or Unsound Practices and Violations of Rules or Laws.—If, in the opinion of the Director, a regulated entity or any regulated entity-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the regulated

25 violated, or the Director has reasonable cause to believe



- 1 that the regulated entity or any regulated entity-affiliated
- 2 party is about to violate, a law, rule, or regulation, or any
- 3 condition imposed in writing by the Director in connection
- 4 with the granting of any application or other request by
- 5 the regulated entity or any written agreement entered into
- 6 with the Director, the Director may issue and serve upon
- 7 the regulated entity or such party a notice of charges in
- 8 respect thereof. The Director may not enforce compliance
- 9 with any housing goal established under subpart B of part
- 10 2 of subtitle A of this title, with section 1336 or 1337
- 11 of this title, with subsection (m) or (n) of section 309 of
- 12 the Federal National Mortgage Association Charter Act
- 13 (12 U.S.C. 1723a(m), (n)), with subsection (e) or (f) of
- 14 section 307 of the Federal Home Loan Mortgage Corpora-
- 15 tion Act (12 U.S.C. 1456(e), (f)), or with paragraph (5)
- 16 or (12) of section 10(j) of the Federal Home Loan Bank
- 17 Act (12 U.S.C. 1430(j)).
- 18 "(b) Issuance for Unsatisfactory Rating.—If a
- 19 regulated entity receives, in its most recent report of ex-
- 20 amination, a less-than-satisfactory rating for asset quality,
- 21 management, earnings, or liquidity, the Director may (if
- 22 the deficiency is not corrected) deem the regulated entity
- 23 to be engaging in an unsafe or unsound practice for pur-
- 24 poses of this subsection.";



1	(2) in subsection $(c)(2)$, by striking "or direc-
2	tor" and inserting "director, or regulated entity-af-
3	filiated party"; and
4	(3) in subsection (d)—
5	(A) in paragraph (1), by inserting "(in-
6	cluding reimbursement of compensation under
7	section 1318)" after "reimbursement";
8	(B) in paragraph (6), by striking "and" at
9	the end;
10	(C) by redesignating paragraph (7) as
11	paragraph (8); and
12	(D) by inserting after paragraph (6) the
13	following new paragraph:
14	"(7) to effect an attachment on a regulated en-
15	tity or regulated entity-affiliated party subject to an
16	order under this section or section 1372; and".
17	SEC. 162. TEMPORARY CEASE-AND-DESIST PROCEEDINGS.
18	Section 1372 of the Housing and Community Devel-
19	opment Act of 1992 (12 U.S.C. 4632) is amended—
20	(1) by striking subsection (a) and inserting the
21	following new subsection:
22	"(a) Grounds for Issuance.—Whenever the Direc-
23	tor determines that the violation or threatened violation
24	or the unsafe or unsound practice or practices specified
25	in the notice of charges served upon the regulated entity



1	or any regulated entity-affiliated party pursuant to section
2	1371(a), or the continuation thereof, is likely to cause in-
3	solvency or significant dissipation of assets or earnings of
4	the regulated entity, or is likely to weaken the condition
5	of the regulated entity prior to the completion of the pro-
6	ceedings conducted pursuant to sections 1371 and 1373,
7	the Director may issue a temporary order requiring the
8	regulated entity or such party to cease and desist from
9	any such violation or practice and to take affirmative ac-
10	tion to prevent or remedy such insolvency, dissipation,
11	condition, or prejudice pending completion of such pro-
12	ceedings. Such order may include any requirement author-
13	ized under subsection 1371(d).";
14	(2) in subsection (b), by striking "or director"
15	and inserting "director, or regulated entity-affiliated
16	party'';
17	(3) in subsection (d), striking "or director" and
18	inserting "director, or regulated entity-affiliated
19	party"; and
20	(4) by striking subsection (e) and in inserting
21	the following new subsection:
22	"(e) Enforcement.—In the case of violation or
23	threatened violation of, or failure to obey, a temporary
24	cease-and-desist order issued pursuant to this section, the

25 Director may apply to the United States District Court



- 1 for the District of Columbia or the United States district
- 2 court within the jurisdiction of which the headquarters of
- 3 the regulated entity is located, for an injunction to enforce
- 4 such order, and, if the court determines that there has
- 5 been such violation or threatened violation or failure to
- 6 obey, it shall be the duty of the court to issue such injunc-
- 7 tion. Such an injunction may include an injunction to ef-
- 8 fect an attachment on a regulated entity or regulated-enti-
- 9 ty affiliated party.".

10 SEC. 163. ENFORCEMENT AND JURISDICTION.

- 11 Section 1375 of the Housing and Community Devel-
- 12 opment Act of 1992 (12 U.S.C. 4635) is amended—
- (1) by striking subsection (a) and inserting the
- 14 following new subsection:
- 15 "(a) Enforcement.—The Director may, in the dis-
- 16 cretion of the Director, apply to the United States District
- 17 Court for the District of Columbia, or the United States
- 18 district court within the jurisdiction of which the head-
- 19 quarters of the regulated entity is located, for the enforce-
- 20 ment of any effective and outstanding notice or order
- 21 issued under this subtitle or subtitle B, or request that
- 22 the Attorney General of the United States bring such an
- 23 action. Such court shall have jurisdiction and power to
- 24 order and require compliance with such notice or order.";
- 25 and



1	(2) in subsection (b), by striking "or 1376" and
2	inserting "1376, or 1377".
3	SEC. 164. CIVIL MONEY PENALTIES.
4	Section 1376 of the Housing and Community Devel-
5	opment Act of 1992 (12 U.S.C. 4636) is amended—
6	(1) in subsection (a)—
7	(A) in the matter preceding paragraph (1),
8	by striking "or any executive officer or" and in-
9	serting "any executive officer of a regulated en-
10	tity, any regulated entity-affiliated party, or
11	any"; and
12	(B) in paragraph (1)—
13	(i) by inserting "Federal Home Loan
14	Bank Act," after "Corporation Act,";
15	(ii) by striking "or subsection" and
16	inserting ", subsection"; and
17	(iii) by inserting ", or paragraph (5)
18	or (12) of section 10(j) of the Federal
19	Home Loan Bank Act" before the semi-
20	colon at the end;
21	(2) by striking subsection (b) and inserting the
22	following new subsection:
23	"(b) Amount of Penalty.—
24	"(1) First tier.—Any regulated entity which,
25	or any regulated entity-affiliated party who—



1	"(A) violates any provision of this title, the
2	Federal National Mortgage Association Charter
3	Act (12 U.S.C. 1716 et seq.), the Federal
4	Home Loan Mortgage Corporation Act (12
5	U.S.C. 1451 et seq.), the Federal Home Loan
6	Bank Act (12 U.S.C. 1421 et seq., or any
7	order, condition, rule, or regulation under any
8	such title or Act, except that the Director may
9	not enforce compliance with any housing goal
10	established under subpart B of part 2 of sub-
11	title A of this title, with section 1336 or 1337
12	of this title, with subsection (m) or (n) of sec-
13	tion 309 of the Federal National Mortgage As-
14	sociation Charter Act (12 U.S.C. 1723a(m),
15	(n)), with subsection (e) or (f) of section 307 of
16	the Federal Home Loan Mortgage Corporation
17	Act (12 U.S.C. 1456(e), (f)), or with paragraph
18	(5) or (12) of section 10(j) of the Federal
19	Home Loan Bank Act;
20	"(B) violates any final or temporary order
21	or notice issued pursuant to this title;
22	"(C) violates any condition imposed in
23	writing by the Director in connection with the
24	grant of any application or other request by



25

such regulated entity;

1	"(D) violates any written agreement be-
2	tween the regulated entity and the Director; or
3	"(E) engages in any conduct the Director
4	determines to be an unsafe or unsound practice,
5	shall forfeit and pay a civil penalty of not more than
6	\$10,000 for each day during which such violation
7	continues.
8	"(2) Second Tier.—Notwithstanding para-
9	graph (1)—
10	"(A) if a regulated entity, or a regulated
11	entity-affiliated party—
12	"(i) commits any violation described
13	in any subparagraph of paragraph (1);
14	"(ii) recklessly engages in an unsafe
15	or unsound practice in conducting the af-
16	fairs of such regulated entity; or
17	"(iii) breaches any fiduciary duty; and
18	"(B) the violation, practice, or breach—
19	"(i) is part of a pattern of mis-
20	conduct;
21	"(ii) causes or is likely to cause more
22	than a minimal loss to such regulated enti-
23	ty; or
24	"(iii) results in pecuniary gain or
25	other benefit to such party.



1	the regulated entity or regulated entity-affiliated
2	party shall forfeit and pay a civil penalty of not
3	more than \$50,000 for each day during which such
4	violation, practice, or breach continues.
5	"(3) Third tier.—Notwithstanding para-
6	graphs (1) and (2), any regulated entity which, or
7	any regulated entity-affiliated party who—
8	"(A) knowingly—
9	"(i) commits any violation or engages
10	in any conduct described in any subpara-
11	graph of paragraph (1);
12	"(ii) engages in any unsafe or un-
13	sound practice in conducting the affairs of
14	such regulated entity; or
15	"(iii) breaches any fiduciary duty; and
16	"(B) knowingly or recklessly causes a sub-
17	stantial loss to such regulated entity or a sub-
18	stantial pecuniary gain or other benefit to such
19	party by reason of such violation, practice, or
20	breach,
21	shall forfeit and pay a civil penalty in an amount not
22	to exceed the applicable maximum amount deter-
23	mined under paragraph (4) for each day during
24	which such violation, practice, or breach continues.



1	"(4) Maximum amounts of penalties for
2	ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—
3	The maximum daily amount of any civil penalty
4	which may be assessed pursuant to paragraph (3)
5	for any violation, practice, or breach described in
6	such paragraph is—
7	"(A) in the case of any person other than
8	a regulated entity, an amount not to exceed
9	\$2,000,000; and
10	"(B) in the case of any regulated entity,
11	\$2,000,000.";
12	(3) in subsection (c)(1)(B), by inserting "regu-
13	lated entity-affiliated party," after "executive offi-
14	cer,''; and
15	(4) in subsection (d)—
16	(A) by striking "or director" each place
17	such term appears and inserting "director, or
18	regulated entity-affiliated party";
19	(B) by striking "request the Attorney Gen-
20	eral of the United States to";
21	(C) by inserting ", or the United States
22	district court within the jurisdiction of which
23	the headquarters of the regulated entity is lo-
24	cated," after "District of Columbia"; and



1	(D) by striking ", or may, under the direc-
2	tion and control of the Attorney General, bring
3	such an action".
4	SEC. 165. REMOVAL AND PROHIBITION AUTHORITY.
5	(a) In General.—Subtitle C of title XIII of the
6	Housing and Community Development Act of 1992 is
7	amended—
8	(1) by redesignating sections 1377, 1378, 1379,
9	1379A, and 1379B (12 U.S.C. 4637–41) as sections
10	1379, 1379A, 1379B, 1379C, and 1379D, respec-
11	tively; and
12	(2) by inserting after section 1376 (12 U.S.C.
13	4636) the following new section:
14	"SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.
15	"(a) AUTHORITY TO ISSUE ORDER.—Whenever the
16	Director determines that—
17	"(1) any regulated entity-affiliated party has,
18	directly or indirectly—
19	"(A) violated—
20	"(i) any law or regulation;
21	"(ii) any cease-and-desist order which
22	has become final;
23	"(iii) any condition imposed in writing
24	by the Director in connection with the



1	grant of any application or other request
2	by such regulated entity; or
3	"(iv) any written agreement between
4	such regulated entity and the Director;
5	"(B) engaged or participated in any unsafe
6	or unsound practice in connection with any reg-
7	ulated entity; or
8	"(C) committed or engaged in any act,
9	omission, or practice which constitutes a breach
10	of such party's fiduciary duty;
11	"(2) by reason of the violation, practice, or
12	breach described in any subparagraph of paragraph
13	(1)—
14	"(A) such regulated entity has suffered or
15	will probably suffer financial loss or other dam-
16	age; or
17	"(B) such party has received financial gain
18	or other benefit by reason of such violation,
19	practice, or breach; and
20	"(3) such violation, practice, or breach—
21	"(A) involves personal dishonesty on the
22	part of such party; or
23	"(B) demonstrates willful or continuing
24	disregard by such party for the safety or sound-
25	ness of such regulated entity.

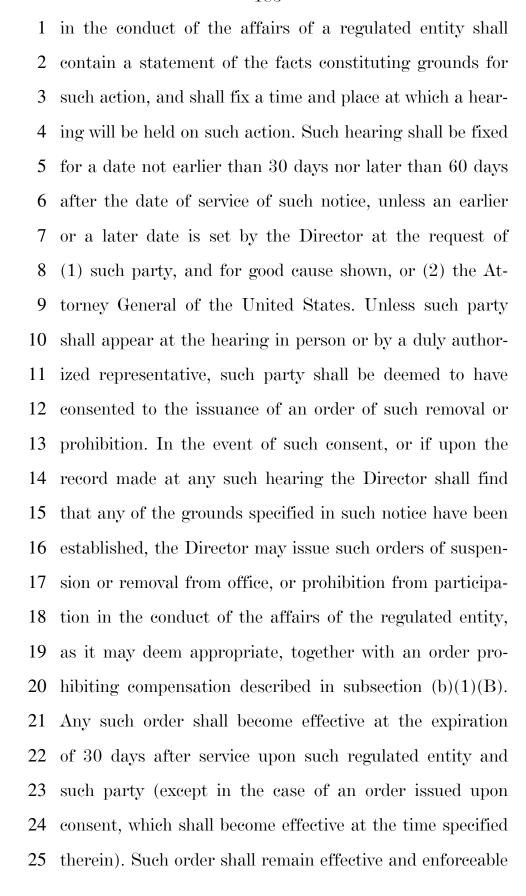


1	the Director may serve upon such party a written notice
2	of the Director's intention to remove such party from of-
3	fice or to prohibit any further participation by such party,
4	in any manner, in the conduct of the affairs of any regu-
5	lated entity.
6	"(b) Suspension Order.—
7	"(1) Suspension or prohibition author-
8	ITY.—If the Director serves written notice under
9	subsection (a) to any regulated entity-affiliated party
10	of the Director's intention to issue an order under
11	such subsection, the Director may—
12	"(A) suspend such party from office or
13	prohibit such party from further participation
14	in any manner in the conduct of the affairs of
15	the regulated entity, if the Director—
16	"(i) determines that such action is
17	necessary for the protection of the regu-
18	lated entity; and
19	"(ii) serves such party with written
20	notice of the suspension order; and
21	"(B) prohibit the regulated entity from re-
22	leasing to or on behalf of the regulated entity-
23	affiliated party any compensation or other pay-
24	ment of money or other thing of current or po-
25	tential value in connection with any resignation,



1	removal, retirement, or other termination of
2	employment or office of the party.
3	"(2) Effective Period.—Any suspension
4	order issued under this subsection—
5	"(A) shall become effective upon service;
6	and
7	"(B) unless a court issues a stay of such
8	order under subsection (g) of this section, shall
9	remain in effect and enforceable until—
10	"(i) the date the Director dismisses
11	the charges contained in the notice served
12	under subsection (a) with respect to such
13	party; or
14	"(ii) the effective date of an order
15	issued by the Director to such party under
16	subsection (a).
17	"(3) Copy of order.—If the Director issues a
18	suspension order under this subsection to any regu-
19	lated entity-affiliated party, the Director shall serve
20	a copy of such order on any regulated entity with
21	which such party is affiliated at the time such order
22	is issued.
23	"(c) Notice, Hearing, and Order.—A notice of
24	intention to remove a regulated entity-affiliated party
25	from office or to prohibit such party from participating







1	except to such extent as it is stayed, modified, terminated,
2	or set aside by action of the Director or a reviewing court.
3	"(d) Prohibition of Certain Specific Activi-
4	TIES.—Any person subject to an order issued under this
5	section shall not—
6	"(1) participate in any manner in the conduct
7	of the affairs of any regulated entity;
8	"(2) solicit, procure, transfer, attempt to trans-
9	fer, vote, or attempt to vote any proxy, consent, or
10	authorization with respect to any voting rights in
11	any regulated entity;
12	"(3) violate any voting agreement previously
13	approved by the Director; or
14	"(4) vote for a director, or serve or act as a
15	regulated entity-affiliated party.
16	"(e) Industry-Wide Prohibition.—
17	"(1) In general.—Except as provided in para-
18	graph (2), any person who, pursuant to an order
19	issued under this section, has been removed or sus-
20	pended from office in a regulated entity or prohib-
21	ited from participating in the conduct of the affairs
22	of a regulated entity may not, while such order is in
23	effect, continue or commence to hold any office in,
24	or participate in any manner in the conduct of the



affairs of, any regulated entity.

1	"(2) Exception if director provides writ-
2	TEN CONSENT.—If, on or after the date an order is
3	issued under this section which removes or suspends
4	from office any regulated entity-affiliated party or
5	prohibits such party from participating in the con-
6	duct of the affairs of a regulated entity, such party
7	receives the written consent of the Director, the
8	order shall, to the extent of such consent, cease to
9	apply to such party with respect to the regulated en-
10	tity described in the written consent. If the Director
11	grants such a written consent, it shall publicly dis-
12	close such consent.
13	"(3) Violation of Paragraph (1) treated
14	AS VIOLATION OF ORDER.—Any violation of para-
15	graph (1) by any person who is subject to an order
16	described in such subsection shall be treated as a
17	violation of the order.
18	"(f) APPLICABILITY.—This section shall only apply
19	to a person who is an individual, unless the Director spe-
20	cifically finds that it should apply to a corporation, firm,
21	or other business enterprise.
22	"(g) Stay of Suspension and Prohibition of
23	REGULATED ENTITY-AFFILIATED PARTY.—Within 10
24	days after any regulated entity-affiliated party has been

25 suspended from office and/or prohibited from participation



1	in the conduct of the affairs of a regulated entity under
2	this section, such party may apply to the United States
3	District Court for the District of Columbia, or the United
4	States district court for the judicial district in which the
5	headquarters of the regulated entity is located, for a stay
6	of such suspension and/or prohibition and any prohibition
7	under subsection (b)(1)(B) pending the completion of the
8	administrative proceedings pursuant to the notice served
9	upon such party under this section, and such court shall
10	have jurisdiction to stay such suspension and/or prohibi-
11	tion.
12	"(h) Suspension or Removal of Regulated En-
13	TITY-AFFILIATED PARTY CHARGED WITH FELONY.—
14	"(1) Suspension or prohibition.—
15	"(A) In General.—Whenever any regu-
16	lated entity-affiliated party is charged in any
17	information, indictment, or complaint, with the
18	commission of or participation in a crime in-
19	volving dishonesty or breach of trust which is
20	punishable by imprisonment for a term exceed-
21	ing one year under State or Federal law, the
22	Director may, if continued service or participa-
23	tion by such party may pose a threat to the
24	regulated entity or impair public confidence in



1	the regulated entity, by written notice served
2	upon such party—
3	"(i) suspend such party from office or
4	prohibit such party from further participa-
5	tion in any manner in the conduct of the
6	affairs of any regulated entity; and
7	"(ii) prohibit the regulated entity
8	from releasing to or on behalf of the regu-
9	lated entity-affiliated party any compensa-
10	tion or other payment of money or other
11	thing of current or potential value in con-
12	nection with the period of any such sus-
13	pension or with any resignation, removal,
14	retirement, or other termination of employ-
15	ment or office of the party.
16	"(B) Provisions applicable to no-
17	TICE.—
18	"(i) Copy.—A copy of any notice
19	under paragraph (1)(A) shall also be
20	served upon the regulated entity.
21	"(ii) Effective period.—A suspen-
22	sion or prohibition under subparagraph (A)
23	shall remain in effect until the informa-
24	tion, indictment, or complaint referred to



1	in such subparagraph is finally disposed of
2	or until terminated by the Director.
3	"(2) Removal or prohibition.—
4	"(A) IN GENERAL.—If a judgment of con-
5	viction or an agreement to enter a pretrial di-
6	version or other similar program is entered
7	against a regulated entity-affiliated party in
8	connection with a crime described in paragraph
9	(1)(A), at such time as such judgment is not
10	subject to further appellate review, the Director
11	may, if continued service or participation by
12	such party may pose a threat to the regulated
13	entity or impair public confidence in the regu-
14	lated entity, issue and serve upon such party an
15	order that—
16	"(i) removes such party from office or
17	prohibits such party from further partici-
18	pation in any manner in the conduct of the
19	affairs of the regulated entity without the
20	prior written consent of the Director; and
21	"(ii) prohibits the regulated entity
22	from releasing to or on behalf of the regu-
23	lated entity-affiliated party any compensa-
24	tion or other payment of money or other

thing of current or potential value in con-



1	nection with the termination of employ-
2	ment or office of the party.
3	"(B) Provisions Applicable to
4	ORDER.—
5	"(i) Copy.—A copy of any order
6	under paragraph (2)(A) shall also be
7	served upon the regulated entity, where-
8	upon the regulated entity-affiliated party
9	who is subject to the order (if a director or
10	an officer) shall cease to be a director or
11	officer of such regulated entity.
12	"(ii) Effect of acquittal.—A find-
13	ing of not guilty or other disposition of the
14	charge shall not preclude the Director from
15	instituting proceedings after such finding
16	or disposition to remove such party from
17	office or to prohibit further participation in
18	regulated entity affairs, and to prohibit
19	compensation or other payment of money
20	or other thing of current or potential value
21	in connection with any resignation, re-
22	moval, retirement, or other termination of
23	employment or office of the party, pursu-
24	ant to subsections (a), (d), or (e) of this
25	section.



1	"(iii) Effective period.—Any no-
2	tice of suspension or order of removal
3	issued under this subsection shall remain
4	effective and outstanding until the comple-
5	tion of any hearing or appeal authorized
6	under paragraph (4) unless terminated by
7	the Director.
8	"(3) Authority of remaining board mem-
9	BERS.—If at any time, because of the suspension of
10	one or more directors pursuant to this section, there
11	shall be on the board of directors of a regulated enti-
12	ty less than a quorum of directors not so suspended,
13	all powers and functions vested in or exercisable by
14	such board shall vest in and be exercisable by the di-
15	rector or directors on the board not so suspended
16	until such time as there shall be a quorum of the
17	board of directors. In the event all of the directors
18	of a regulated entity are suspended pursuant to this
19	section, the Director shall appoint persons to serve
20	temporarily as directors in their place and stead
21	pending the termination of such suspensions, or
22	until such time as those who have been suspended
23	cease to be directors of the regulated entity and

their respective successors take office.



"(4) Hearing regarding continued par-
TICIPATION.—Within 30 days from service of any
notice of suspension or order of removal issued pur-
suant to paragraph (1) or (2) of this subsection, the
regulated entity-affiliated party concerned may re-
quest in writing an opportunity to appear before the
Director to show that the continued service to or
participation in the conduct of the affairs of the reg-
ulated entity by such party does not, or is not likely
to, pose a threat to the interests of the regulated en-
tity or threaten to impair public confidence in the
regulated entity. Upon receipt of any such request,
the Director shall fix a time (not more than 30 days
after receipt of such request, unless extended at the
request of such party) and place at which such party
may appear, personally or through counsel, before
one or more members of the Director or designated
employees of the Director to submit written mate-
rials (or, at the discretion of the Director, oral testi-
mony) and oral argument. Within 60 days of such
hearing, the Director shall notify such party whether
the suspension or prohibition from participation in
any manner in the conduct of the affairs of the reg-
ulated entity will be continued, terminated, or other-
wise modified, or whether the order removing such



party from office or prohibiting such party from fur-
ther participation in any manner in the conduct of
the affairs of the regulated entity, and prohibiting
compensation in connection with termination will be
rescinded or otherwise modified. Such notification
shall contain a statement of the basis for the Direc-
tor's decision, if adverse to such party. The Director
is authorized to prescribe such rules as may be nec-
essary to effectuate the purposes of this subsection.
"(i) Hearings and Judicial Review.—
"(1) Venue and Procedure.—Any hearing

"(1) Venue and procedure.—Any hearing provided for in this section shall be held in the District of Columbia or in the Federal judicial district in which the headquarters of the regulated entity is located, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code. After such hearing, and within 90 days after the Director has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any



such order shall be exclusively as provided in this
subsection. Unless a petition for review is timely
filed in a court of appeals of the United States, as
provided in paragraph (2), and thereafter until the
record in the proceeding has been filed as so pro-
vided, the Director may at any time, upon such no-
tice and in such manner as it shall deem proper,
modify, terminate, or set aside any such order. Upon
such filing of the record, the Director may modify,
terminate, or set aside any such order with permis-
sion of the court.

"(2) Review of order.—Any party to any proceeding under paragraph (1) may obtain a review of any order served pursuant to paragraph (1) (other than an order issued with the consent of the regulated entity or the regulated entity-affiliated party concerned, or an order issued under subsection (h) of this section) by the filing in the United States Court of Appeals for the District of Columbia Circuit or court of appeals of the United States for the circuit in which the headquarters of the regulated entity is located, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of such petition shall be forthwith



1	transmitted by the clerk of the court to the Director,
2	and thereupon the Director shall file in the court the
3	record in the proceeding, as provided in section 2112
4	of title 28, United States Code. Upon the filing of
5	such petition, such court shall have jurisdiction
6	which upon the filing of the record shall (except as
7	provided in the last sentence of paragraph (1)) be
8	exclusive, to affirm, modify, terminate, or set aside
9	in whole or in part, the order of the Director. Re-
10	view of such proceedings shall be had as provided in
11	chapter 7 of title 5, United States Code. The judg-
12	ment and decree of the court shall be final, except
13	that the same shall be subject to review by the Su-
14	preme Court upon certiorari, as provided in section
15	1254 of title 28, United States Code.
16	"(3) Proceedings not treated as stay.—
17	The commencement of proceedings for judicial re-
18	view under paragraph (2) shall not, unless specifi-
19	cally ordered by the court, operate as a stay of any
20	order issued by the Director.".
21	(b) Conforming Amendments.—
22	(1) 1992 ACT.—Section 1317(f) of the Housing
23	and Community Development Act of 1992 (12



24 U.S.C. 4517(f)) is amended by striking "section

1379B" and inserting "section 1379D". 25

1	(2) FANNIE MAE CHARTER ACT.—The second
2	sentence of subsection (b) of section 308 of the Fed-
3	eral National Mortgage Association Charter Act (12
4	U.S.C. 1723(b)) is amended by striking "The" and
5	inserting "Except to the extent that action under
6	section 1377 of the Housing and Community Devel-
7	opment Act of 1992 temporarily results in a lesser
8	number, the".
9	(3) Freddie Mac act.—The second sentence
10	of subparagraph (A) of section 303(a)(2) of the
11	Federal Home Loan Mortgage Corporation Act (12
12	U.S.C. 1452(a)(2)(A)) is amended by striking
13	"The" and inserting "Except to the extent that ac-
14	tion under section 1377 of the Housing and Commu-
15	nity Development Act of 1992 temporarily results in
16	a lesser number, the".
17	SEC. 166. CRIMINAL PENALTY.
18	Subtitle C of title XIII of the Housing and Commu-
19	nity Development Act of 1992 (12 U.S.C. 4631 et seq.)
20	is amended by inserting after section 1377 (as added by
21	the preceding provisions of this Act) the following new sec-
22	tion:
23	"SEC. 1378. CRIMINAL PENALTY.
3 4	William I also a solitorate to a solitorate to a second and in a second and a second a second and a second an



Whoever, being subject to an order in effect under 25 section 1377, without the prior written approval of the Di-

1	rector, knowingly participates, directly or indirectly, in any
2	manner (including by engaging in an activity specifically
3	prohibited in such an order) in the conduct of the affairs
4	of any regulated entity shall, notwithstanding section
5	3571 of title 18, be fined not more than \$1,000,000, im-
6	prisoned for not more than 5 years, or both.".
7	SEC. 167. CONFORMING AMENDMENTS.
8	Subtitle C of title XIII of the Housing and Commu-
9	nity Development Act of 1992 is amended—
10	(1) in section 1372(c)(1) (12 U.S.C. 4632(c)),
11	by striking "that enterprise" and inserting "that
12	regulated entity";
13	(2) in section 1379 (12 U.S.C. 4637), as so re-
14	designated by section 165(a)(1) of this Act—
15	(A) by inserting ", or of a regulated entity-
16	affiliated party," before "shall not affect"; and
17	(B) by striking "such director or executive
18	officer" each place such term appears and in-
19	serting "such director, executive officer, or reg-
20	ulated entity-affiliated party";
21	(3) in section 1379A (12 U.S.C. 4638), as so
22	redesignated by section 165(a)(1) of this Act, by in-
23	serting "or against a regulated entity-affiliated
24	party," before "or impair";



1	(4) by striking "An enterprise" each place such
2	term appears in such subtitle and inserting "A regu-
3	lated entity";
4	(5) by striking "an enterprise" each place such
5	term appears in such subtitle and inserting "a regu-
6	lated entity";
7	(6) by striking "the enterprise" each place such
8	term appears in such subtitle and inserting "the reg-
9	ulated entity"; and
10	(7) by striking "any enterprise" each place such
11	term appears in such subtitle and inserting "any
12	regulated entity".
13	Subtitle E—General Provisions
13	
14	SEC. 181. PRESIDENTIALLY APPOINTED DIRECTORS OF EN-
14	SEC. 181. PRESIDENTIALLY APPOINTED DIRECTORS OF EN
14 15	SEC. 181. PRESIDENTIALLY APPOINTED DIRECTORS OF ENTERPRISES.
141516	SEC. 181. PRESIDENTIALLY APPOINTED DIRECTORS OF ENTERPRISES. (a) Fannie Mae.—
14151617	SEC. 181. PRESIDENTIALLY APPOINTED DIRECTORS OF ENTERPRISES. (a) Fannie Mae.— (1) In general.—Subsection (b) of section
14 15 16 17 18	SEC. 181. PRESIDENTIALLY APPOINTED DIRECTORS OF ENTERPRISES. (a) FANNIE MAE.— (1) IN GENERAL.—Subsection (b) of section 308 of the Federal National Mortgage Association
141516171819	SEC. 181. PRESIDENTIALLY APPOINTED DIRECTORS OF ENTERPRISES. (a) Fannie Mae.— (1) In General.—Subsection (b) of section 308 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—
14 15 16 17 18 19 20	SEC. 181. PRESIDENTIALLY APPOINTED DIRECTORS OF ENTERPRISES. (a) FANNIE MAE.— (1) IN GENERAL.—Subsection (b) of section 308 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended— (A) in the first sentence, by striking "five
14 15 16 17 18 19 20 21	TERPRISES. (a) FANNIE MAE.— (1) IN GENERAL.—Subsection (b) of section 308 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended— (A) in the first sentence, by striking "five of whom shall be appointed annually by the
14 15 16 17 18 19 20 21 22	TERPRISES. (a) Fannie Mae.— (1) In General.—Subsection (b) of section 308 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended— (A) in the first sentence, by striking "five of whom shall be appointed annually by the President of the United States, and the remain-



1	(C) in the third sentence—
2	(i) by striking "appointed or"; and
3	(ii) by striking ", except that any
4	such appointed member may be removed
5	from office by the President for good
6	cause";
7	(D) in the fourth sentence, by striking
8	"elective"; and
9	(E) by striking the fifth sentence.
10	(2) Transitional Provision.—The amend-
11	ments made by paragraph (1) shall not apply to any
12	appointed position of the board of directors of the
13	Federal National Mortgage Association until the ex-
14	piration of the annual term for such position during
15	which the effective date under section 184 occurs.
16	(b) Freddie Mac.—
17	(1) In General.—Paragraph (2) of section
18	303(a) of the Federal Home Loan Mortgage Cor-
19	poration Act (12 U.S.C. 1452(a)(2)) is amended—
20	(A) in subparagraph (A)—
21	(i) in the first sentence, by striking "5
22	of whom shall be appointed annually by
23	the President of the United States and the
24	remainder of whom" and inserting "who";
25	and



1	(ii) in the second sentence, by striking
2	"appointed by the President of the United
3	States";
4	(B) in subparagraph (B)—
5	(i) by striking "such or"; and
6	(ii) by striking ", except that any ap-
7	pointed member may be removed from of-
8	fice by the President for good cause"; and
9	(C) in subparagraph (C)—
10	(i) by striking the first sentence; and
11	(ii) by striking "elective".
12	(2) Transitional provision.—The amend-
13	ments made by paragraph (1) shall not apply to any
14	appointed position of the Board of Directors of the
15	Federal Home Loan Mortgage Corporation until the
16	expiration of the annual term for such position dur-
17	ing which the effective date under section 184 oc-
18	curs.
19	SEC. 182. REPORT ON PORTFOLIO OPERATIONS, SAFETY
20	AND SOUNDNESS, AND MISSION OF ENTER-
21	PRISES.
22	Not later than the expiration of the 12-month period
23	beginning on the effective date under section 184, the Di-
24	rector of the Federal Housing Finance Agency shall sub-
25	mit a report to the Congress which shall include—



1	(1) a description of the portfolio holdings of the
2	enterprises (as such term is defined in section 1303
3	of the Housing and Community Development Act of
4	1992 (12 U.S.C. 4502) in mortgages (including
5	whole loans and mortgage-backed securities), non-
6	mortgages, and other assets;
7	(2) a description of the risk implications for the
8	enterprises of such holdings and the consequent risk
9	management undertaken by the enterprises (includ-
10	ing the use of derivatives for hedging purposes),
11	compared with off-balance sheet obligations of the
12	enterprises (including mortgage-backed securities
13	guaranteed by the enterprises);
14	(3) an analysis of portfolio holdings for safety
15	and soundness purposes;
16	(4) an assessment of whether portfolio holdings
17	fulfill the mission purposes of the enterprises under
18	the Federal National Mortgage Association Charter
19	Act and the Federal Home Loan Mortgage Corpora-
20	tion Act;
21	(5) an analysis of the potential systemic risk
22	implications for the enterprises, the housing and
23	capital markets, and the financial system of portfolio
24	holdings, and whether such holdings should be lim-



ited or reduced over time.

1 SEC. 183. CONFORMING AND TECHNICAL AMENDMENTS.

- 2 (a) AMENDMENT TO 1992 ACT.—Title XIII of the
- 3 Housing and Community Development Act of 1992 is
- 4 amended by striking section 1383 (12 U.S.C. 1451 note).
- 5 (b) AMENDMENT TO TITLE 18, UNITED STATES
- 6 Code.—Section 1905 of title 18, United States Code, is
- 7 amended by striking "Office of Federal Housing Enter-
- 8 prise Oversight" and inserting "Federal Housing Finance
- 9 Agency".
- 10 (c) Amendments to Flood Disaster Protection
- 11 Act of 1973.—Section 102(f)(3)(A) of the Flood Dis-
- 12 aster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A))
- 13 is amended by striking "Director of the Office of Federal
- 14 Housing Enterprise Oversight of the Department of Hous-
- 15 ing and Urban Development" and inserting "Director of
- 16 the Federal Housing Finance Agency".
- 17 (d) Amendment to Department of Housing and
- 18 Urban Development Act.—Section 5 of the Depart-
- 19 ment of Housing and Urban Development Act (42 U.S.C.
- 20 3534) is amended by striking subsection (d).
- 21 (e) Amendment to Title 5, United States
- 22 Code.—Section 5313 of title 5, United States Code, is
- 23 amended by striking the item relating to the Director of
- 24 the Office of Federal Housing Enterprise Oversight, De-
- 25 partment of Housing and Urban Development and insert-
- 26 ing the following new item:



1	"Director of the Federal Housing Finance Agency.".
2	SEC. 184. EFFECTIVE DATE.
3	Except as specifically provided otherwise in this title
4	the amendments made by this title shall take effect on
5	and shall apply beginning on, the expiration of the 1-year
6	period beginning on the date of the enactment of this Act
7	TITLE II—FEDERAL HOME LOAN
8	BANKS
9	SEC. 201. DEFINITIONS.
10	Section 2 of the Federal Home Loan Bank Act (12
11	U.S.C. 1422) is amended—
12	(1) by striking paragraphs (1) and (10);
13	(2) by redesignating paragraphs (2) through
14	(9) as paragraphs (1) through (8), respectively;
15	(3) by redesignating paragraphs (11) through
16	(13) as paragraphs (9) through (11), respectively
17	and
18	(4) by adding at the end the following:
19	"(12) DIRECTOR.—The term 'Director' means
20	the Director of the Federal Housing Finance Agen-
21	cy.
22	"(13) Agency.—The term 'Agency' means the
23	Federal Housing Finance Agency.".



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J	SEC.	<i>4</i> 04.	DIRECT	uns.

2	(a) Election.—Section 7 of the Federal Home Loan
3	Bank Act (12 U.S.C. 1427) is amended—
4	(1) by striking subsection (a) and inserting the
5	following:
6	"(a) Number; Election; Qualifications; Con-
7	FLICTS OF INTEREST.—
8	"(1) In general.—Subject to paragraph (2),
9	and except to the extent that action under section
10	1377 of the Federal Housing Enterprises Financial
11	Safety and Soundness Act of 1992 results in a lesser
12	number, the management of each Federal Home
13	Loan Bank shall be vested in a board of 13 direc-
14	tors, or such other number as the Director deter-
15	mines appropriate, each of whom—
16	"(A) shall be elected by the members; and
17	"(B) shall be either a bona fide resident of



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"(2) Public interest.—At least 2 directors elected under paragraph (1) shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or

cated in that district.

financial consumer protections.";

the district in which such bank is located or an

officer or director of a member of such bank lo-



1	(2) in subsection (d)—
2	(A) in the first sentence, by striking ",
3	whether elected or appointed,"; and
4	(B) in the second sentence, by striking "or
5	appointed"; and
6	(C) in the third sentence, by striking "an
7	elective" each place such term appears and in-
8	serting "a";
9	(3) by striking "elective" each place such term
10	appears (except in subsection (e));
11	(4) in subsection (f), by striking "appointed or"
12	each place that term appears.
13	(b) Terms.—
14	(1) In General.—Section 7(d) of the Federal
15	Home Loan Bank Act (12 U.S.C. 1427(i)) is
16	amended—
17	(A) in the first sentence, by striking "3
18	years" and inserting "4 years"; and
19	(B) in the second sentence—
20	(i) by striking "Federal Home Loan
21	Bank System Modernization Act of 1999"
22	and inserting "Federal Housing Finance
23	Reform Act of 2005"; and
24	(ii) by striking "1/3" and inserting
25	"1/4".



1	(2) Savings provision.—The amendments
2	made by paragraph (1) shall not apply to the term
3	of office of any director of a Federal home loan bank
4	who is serving as of the effective date of this Act
5	under section 184, including any director elected to
6	fill a vacancy in any such office.
7	(c) Compensation.—Subsection (i) of section 7 of
8	the Federal Home Loan Bank Act (12 U.S.C. 1427(i))
9	is amended to read as follows:
10	"(i) Directors' Compensation.—
11	"(1) In general.—Each Federal home loan
12	bank may pay the directors on the board of directors
13	for the bank reasonable compensation for the time
14	required of such directors, and reasonable expenses
15	incurred by such directors, in connection with service
16	on the board of directors, in accordance with resolu-
17	tions adopted by the board of directors and subject
18	to the approval of the board.
19	"(2) Annual report by the board.—The
20	Director shall include, in the annual report sub-
21	mitted to the Congress pursuant to section 1319B of
22	the Federal Housing Enterprises Financial Safety
23	and Soundness Act of 1992, information regarding

the compensation and expenses paid by the Federal



1	home loan banks to the directors on the boards of
2	directors of the banks.".
3	SEC. 203. FEDERAL HOUSING FINANCE AGENCY OVER-
4	SIGHT OF FEDERAL HOME LOAN BANKS.
5	The Federal Home Loan Bank Act (12 U.S.C. 1421
6	et seq.), other than in provisions of that Act added or
7	amended otherwise by this Act, is amended—
8	(1) by striking sections 2A and 2B (12 U.S.C.
9	1422a, 1422b);
10	(2) in section 6 (12 U.S.C. 1426(b)(1))—
11	(A) in subsection (b)(1), in the matter pre-
12	ceding subparagraph (A), by striking "Finance
13	Board approval" and inserting "approval by the
14	Director"; and
15	(B) in each of subsections (c)(4)(B) and
16	(d)(2), by striking "Finance Board regulations"
17	each place that term appears and inserting
18	"regulations of the Director";
19	(3) in section 8 (12 U.S.C. 1428), in the sec-
20	tion heading, by striking "BY THE BOARD";
21	(4) in section 10(b) (12 U.S.C. 1430), by strik-
22	ing "by formal resolution";
23	(5) in section 18 (12 U.S.C. 1438), by striking
24	subsection (b);
25	(6) in section 21 (12 U.S.C. 1441)—



1	(A) in subsection (b)—
2	(i) in paragraph (5), by striking
3	"Chairperson of the Federal Housing Fi-
4	nance Board" and inserting "Director";
5	and
6	(ii) in the heading for paragraph (8),
7	by striking "Federal Housing Finance
8	BOARD" and inserting "DIRECTOR";
9	(B) in subsection (i), in the heading for
10	paragraph (2), by striking "FEDERAL HOUSING
11	FINANCE BOARD" and inserting "DIRECTOR";
12	(7) in section 23 (12 U.S.C. 1443), by striking
13	"Board of Directors of the Federal Housing Finance
14	Board" and inserting "Director";
15	(8) by striking "the Board" each place such
16	term appears in such Act (except in subsections (a),
17	(b), and (c) of section 11 (12 U.S.C. 1431), section
18	15 (12 U.S.C. 1435), section 21(f)(2) (12 U.S.C.
19	1441(f)(2), subsections (a), $(k)(2)(B)(i)$, and
20	(n)(6)(C)(ii) of section 21A (12 U.S.C. 1441a), sub-
21	sections (e)(7), (f)(2)(C), and (k)(7)(B)(ii) of section
22	21B (12 U.S.C. 1441b), the first two places such
23	term appears in section 22 (12 U.S.C. 1442), and
24	section 25 (12 U.S.C. 1445)) and inserting "the Di-
25	rector'';



1	(9) by striking "The Board" each place such
2	term appears in such Act (except in sections 7(e)
3	(12 U.S.C. 1427(e)), and 11(b) (12 U.S.C. 1431(b))
4	and inserting "The Director";
5	(10) by striking "the Board's" each place such
6	term appears in such Act and inserting "the Direc-
7	tor's";
8	(11) by striking "The Board's" each place such
9	term appears in such Act and inserting "The Direc-
10	tor's";
11	(12) by striking "The Finance Board" each
12	place such term appears in such Act and inserting
13	"The Director";
14	(13) by striking "the Finance Board" each
15	place such term appears in such Act and inserting
16	"the Director";
17	(14) by striking "Federal Housing Finance
18	Board" each place such term appears and inserting
19	"Director";
20	(15) by striking "Federal Home Loan Bank
21	Board" each place such term appears in such Act
22	(except in section $21A(n)(9)(B)$ (12)
23	U.S.C.1441a(n)(9)(B)) and inserting "Director";
24	(16) in section 11(i) (12 U.S.C. 1431(i), by
25	striking "the Chairperson of"; and



1	(17) in section 21(e)(9) (12 U.S.C. 1441(e)(9)),
2	by striking "Chairperson of the".
3	SEC. 204. DEBT ISSUING FACILITY.
4	The Federal Home Loan Bank Act (12 U.S.C. 1421
5	et seq.) is amended by inserting after section 11 the fol-
6	lowing:
7	"SEC. 11A. FEDERAL HOME LOAN BANK FINANCE COR-
8	PORATION.
9	"(a) Establishment.—
10	"(1) IN GENERAL.—There is hereby established
11	the Federal Home Loan Bank Finance Corporation,
12	which shall be a jointly owned subsidiary of the Fed-
13	eral Home Loan Banks (in this section referred to
14	as the 'Corporation').
15	"(2) Purposes.—The purpose of the Corpora-
16	tion shall be—
17	"(A) to issue and service the consolidated
18	obligations of the Federal Home Loan Banks in
19	accordance with this Act; and
20	"(B) to perform all other necessary and
21	proper functions in relation to the issuance and
22	service of such obligations, as fiscal agent on
23	behalf of the Federal Home Loan Banks, and
24	any other functions performed by the Office of
25	Finance on behalf of the Financing Corporation



1	(established under section 21) and the Resolu-
2	tion Funding Corporation (established under
3	section 21B).
4	"(3) Transfer of functions.—
5	"(A) IN GENERAL.—The functions of the
6	Office of Finance of the Federal Home Loan
7	Banks, shall be transferred to the Corporation
8	immediately upon the conclusion of the organi-
9	zational meeting of the board of directors (re-
10	ferred to in this subsection as the 'effective
11	time') established under subsection (c).
12	"(B) Organizational meeting.—The
13	organizational meeting of the board of directors
14	of the Corporation shall occur as soon as prac-
15	ticable after the date of enactment of the Fed-
16	eral Housing Finance Reform Act of 2005.
17	"(C) Interim procedures.—Until the
18	transfer under subparagraph (A), the Office of
19	Finance established as a joint office of the Fed-
20	eral Home Loan Banks (referred to in this sub-
21	section as the 'predecessor office') shall con-
22	tinue to operate as if this section had not been
23	enacted.
24	"(D) References.—After the transfer
25	under subparagraph (A), any reference under



1	any Federal law to the Office of Finance and
2	the Managing Director of the Office of Finance
3	shall be deemed to be references to the Cor-
4	poration and the chief executive officer of the
5	Corporation, respectively.
6	"(4) Succession.—
7	"(A) Assets and liabilities.—At the
8	transfer under paragraph (3)(A), the Corpora-
9	tion shall, by operation of law and without any
10	further action by the Federal Housing Finance
11	Board, the predecessor office, or any court, suc-
12	ceed to the assets of, and assume all debts, obli-
13	gations, contracts, and other liabilities of the
14	predecessor office, matured or unmatured, ac-
15	crued or absolute, contingent or otherwise, and
16	whether or not reflected or reserved against on
17	balance sheets, books of account, or records of
18	the predecessor office.
19	"(B) CONTRACTS.—At the time of the
20	transfer under paragraph (3)(A), the existing
21	contractual obligations of the Federal Housing
22	Finance Board, solely in its capacity as issuer
23	of consolidated obligations of the Federal Home
24	Loan Banks and the predecessor office shall, by

operation of law and without any further action



1	by the Federal Housing Finance Board, the
2	predecessor office, or any court, become obliga-
3	tions, entitlements, and instruments of the Cor-
4	poration.
5	"(C) Taxation.—The succession to as-
6	sets, assumption of liabilities, conversion of ob-
7	ligations and instruments, and effectuation of
8	any other transaction by the Corporation to
9	carry out this subsection shall not be treated as
10	a taxable event under the laws of any State, or
11	any political subdivision thereof.
12	"(b) Powers.—Subject to the provisions of this Act,
13	and such regulations as the Director may prescribe, the
14	Corporation shall have the power to—
15	"(1) issue voting capital stock to the Federal
16	Home Loan Banks;
17	"(2) issue and service Federal Home Loan
18	Bank consolidated notes, consolidated bonds, con-
19	solidated debentures and other consolidated obliga-
20	tions under section 11 of this Act on behalf of the
21	Federal Home Loan Banks;
22	"(3) determine the amount, maturities, rate of
23	interest, terms, and other conditions of Federal
24	Home Loan Bank consolidated obligations;
25	"(4) adopt, alter, and use a corporate seal;



1	"(5) make contracts;
2	"(6) sue and be sued in the corporate capacity
3	of the Corporation, and to complain and defend in
4	any action brought by or against the Corporation in
5	any court of competent jurisdiction;
6	"(7) determine the terms and conditions under
7	which the Corporation may indemnify its directors,
8	officers, employees, and agents;
9	"(8) determine and implement the methodology
10	for assessments of the Federal Home Loan Banks to
11	fund all of the expenses of the Corporation; and
12	"(9) exercise such incidental powers not incon-
13	sistent with the provisions of this Act as are nec-
14	essary or advisable to carry out the purposes of the
15	Corporation.
16	"(c) Board of Directors.—
17	"(1) Establishment.—The management of
18	the Corporation shall be vested in a board of direc-
19	tors composed of the president of each of the Fed-
20	eral Home Loan Banks, ex officio.
21	"(2) Duties.—The board of directors shall ad-
22	minister the affairs of the Corporation in accordance
23	with the provisions of this Act.
24	"(3) Interim appointments.—If the presi-

dent of any Federal Home Loan Bank is vacant, the



1	person serving in such capacity on an acting basis
2	shall serve on the board of directors of the Corpora-
3	tion until replaced by the next person to fill the of-
4	fice of president of the Federal Home Loan Bank
5	"(4) Powers.—The board of directors shall ex-
6	ercise such powers as may be necessary or advisable
7	to carry out the purposes of this section, including
8	the power to—
9	"(A) set policies for the management and
10	operation of the Corporation;
11	"(B) approve a strategic business plan for
12	the Corporation;
13	"(C) review, adopt and monitor annual op-
14	eration and capital budgets of the Corporation
15	"(D) constitute and perform the duties of
16	an audit committee, which to the extent pos-
17	sible shall operate consistent with—
18	"(i) the requirements established for
19	the Federal Home Loan Banks; and
20	"(ii) the requirements pertaining to
21	audit committee reports set forth in the
22	rules of Securities and Exchange Commis-
23	sion;
24	"(E) select, employ, determine the com-
25	pensation for, and assign the duties and func-



1	tions of the president of the Corporation, who
2	shall—
3	"(i) be the chief executive officer for
4	the Corporation and shall direct the imple-
5	mentation of the policies adopted by the
6	board of directors of the Corporation;
7	"(ii) serve as a member of the Direc-
8	torate of the Financing Corporation, under
9	section $21(b)(1)(A)$; and
10	"(iii) serve as a member of the Direc-
11	torate of the Resolution Funding Corpora-
12	tion, under section $21B(c)(1)(A)$;
13	"(F) provide for the review and approval
14	of all contracts of the Corporation;
15	"(G) have the exclusive authority to em-
16	ploy and contract for the services of an inde-
17	pendent, external auditor for the annual and
18	quarterly combined financial statements of the
19	Federal Home Loan Banks; and
20	"(H) select, evaluate, determine the com-
21	pensation of, and, as appropriate, replace the
22	internal auditor of the Corporation, who may be
23	removed only by vote of the board of directors
24	of the Corporation.



1	"(5) Pay.—The members of the board of direc-
2	tors of the Corporation shall not receive compensa-
3	tion for their services as members of the board of di-
4	rectors.
5	"(6) Quorum requirement.—
6	"(A) In general.—No business of the
7	Corporation may be conducted by the board of
8	directors unless a quorum of the members of
9	the board of directors is present in person or by
10	telephone, or through action taken by written
11	consent executed by all of the directors.
12	"(B) Number.—Directors representing a
13	majority of the members of the board of direc-
14	tors shall constitute a quorum.
15	"(C) Vote required.—Action taken by
16	the board of directors shall be approved by a
17	majority of the directors in attendance at any
18	meeting at which a quorum is present, unless
19	the board of directors adopts procedures requir-
20	ing a greater voting requirement.
21	"(7) Appointment of officers and adop-
22	TION OF RULES OF PROCEDURE.—The board of di-
23	rectors of the Cornoration shall—



1	"(A) select, from among the members of
2	such board, a Chairperson and a Vice Chair-
3	person; and
4	"(B) adopt by-laws and other rules of pro-
5	cedure for actions before the board of directors,
6	including the establishment of 1 or more com-
7	mittees to take action on behalf of the board of
8	directors, and the delegation of powers of the
9	board of directors to any committee or officer
10	of the Corporation.
11	"(d) Stock.—
12	"(1) Issuance of equal amount to each
13	BANK.—The Corporation shall issue to each Federal
14	home loan bank one share of voting capital stock,
15	with a par value of \$100 per share.
16	"(2) Restricted transferability.—Stock
17	issued under paragraph (1) may be owned and held
18	only by the Federal Home Loan Banks.
19	"(3) PAYMENT UPON ISSUANCE.—Upon
20	issuance of any share of stock under this subsection
21	to any Federal Home Loan Bank, the bank shall
22	pay to the Corporation the total amount due for
23	such stock.
24	"(4) Distribution requirement.—



1	"(A) In general.—The total amount of
2	outstanding stock of the Corporation shall, at
3	all times, be distributed equally among all the
4	Federal Home Loan Banks.
5	"(B) Procedures.—The board of direc-
6	tors of the Corporation shall adopt procedures
7	to implement subparagraph (A).
8	"(e) Status.—Except to the extent expressly pro-
9	vided in this Act, or in rules and regulations promulgated
10	by the Director, or unless the context clearly indicates oth-
11	erwise, the Corporation shall be accorded the same status
12	as a Federal Home Loan Bank for purposes of any law,
13	including sections 2B and 13 of this Act.".
13 14	including sections 2B and 13 of this Act.". SEC. 205. SECURITIES AND EXCHANGE COMMISSION DIS-
14	SEC. 205. SECURITIES AND EXCHANGE COMMISSION DIS-
14 15	SEC. 205. SECURITIES AND EXCHANGE COMMISSION DISCLOSURE.
141516	SEC. 205. SECURITIES AND EXCHANGE COMMISSION DIS- CLOSURE. (a) IN GENERAL.—The Federal Home Loan Banks
14151617	SEC. 205. SECURITIES AND EXCHANGE COMMISSION DISCLOSURE. (a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with—
14 15 16 17 18	SEC. 205. SECURITIES AND EXCHANGE COMMISSION DISCLOSURE. (a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with— (1) sections 13(e), 14(a), 14(c), and 17A of the
141516171819	SEC. 205. SECURITIES AND EXCHANGE COMMISSION DISCLOSURE. (a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with— (1) sections 13(e), 14(a), 14(c), and 17A of the Securities Exchange Act of 1934 and related Com-
14 15 16 17 18 19 20	SEC. 205. SECURITIES AND EXCHANGE COMMISSION DISCUSSION. (a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with— (1) sections 13(e), 14(a), 14(c), and 17A of the Securities Exchange Act of 1934 and related Commission regulations; and
14 15 16 17 18 19 20 21	CLOSURE. (a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with— (1) sections 13(e), 14(a), 14(c), and 17A of the Securities Exchange Act of 1934 and related Commission regulations; and (2) section 15 of that Act and related Securities
14 15 16 17 18 19 20 21 22	SEC. 205. SECURITIES AND EXCHANGE COMMISSION DIS- CLOSURE. (a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with— (1) sections 13(e), 14(a), 14(c), and 17A of the Securities Exchange Act of 1934 and related Commission regulations; and (2) section 15 of that Act and related Securities and Exchange Commission regulations with respect



1	ance with sections 13(d), 13(f), 13(g), 14(d), and 16 of
2	the Securities Exchange Act of 1934 and related Securi-
3	ties and Exchange Commission regulations with respect
4	to their ownership of, or transactions in, capital stock of
5	the Federal Home Loan Banks.
6	(c) Exempted and Government Securities.—
7	(1) Capital Stock.—The capital stock issued
8	by each of the Federal Home Loan Banks under
9	section 6 of the Federal Home Loan Bank Act are—
10	(A) exempted securities within the mean-
11	ing of section 3(a)(2) of the Securities Act of
12	1933; and
13	(B) "exempted securities" within the
14	meaning of section 3(a)(12)(A) of the Securities
15	Exchange Act of 1934.
16	(2) Other obligations.—The debentures,
17	bonds, and other obligations issued under section 11
18	of the Federal Home Loan Bank Act are—
19	(A) exempted securities within the mean-
20	ing of section 3(a)(2) of the Securities Act of
21	1933;
22	(B) "government securities" within the
23	meaning of section 3(a)(42) of the Securities
24	Exchange Act of 1934:



1	(C) excluded from the definition of "gov-
2	ernment securities broker" within section
3	3(a)(43) of the Securities Exchange Act of
4	1934;
5	(D) excluded from the definition of "gov-
6	ernment securities dealer" within section
7	3(a)(44) of the Securities Exchange Act of
8	1934; and
9	(E) "government securities" within the
10	meaning of section 2(a)(16) of the Investment
11	Company Act of 1940.
12	(d) Exemption From Reporting Require-
13	MENTS.—The Federal Home Loan Banks shall be exempt
14	from periodic reporting requirements pertaining to—
15	(1) the disclosure of related party transactions
16	that occur in the ordinary course of business of the
17	Banks with their members; and
18	(2) the disclosure of unregistered sales of equity
19	securities.
20	(e) Tender Offers.—The Securities and Exchange
21	Commission's rules relating to tender offers shall not
22	apply in connection with transactions in capital stock of
23	the Federal Home Loan Banks.
24	(f) Regulations.—In issuing final regulations to
25	implement provisions of this section, the Securities and



1	Exchange Commission shall consider the distinctive char-
2	acteristics of the Federal Home Loan Banks when evalu-
3	ating the accounting treatment with respect to the pay-
4	ment to REFCORP, the role of the combined financial
5	statements of the twelve Banks, the accounting classifica-
6	tion of redeemable capital stock, and the accounting treat-
7	ment related to the joint and several nature of the obliga-
8	tions of the Banks.
9	SEC. 206. COMMUNITY FINANCIAL INSTITUTION MEMBERS
10	(a) Total Asset Requirement.—Paragraph (12)
11	of section 2 of the Federal Home Loan Bank Act (12
12	U.S.C. 1422(12)), as so redesignated by section 202(2)of
13	this Act, is amended by striking "\$500,000,000" each
14	place such term appears and inserting "\$1,000,000,000".
15	(b) Use of Advances for Community Develop-
16	MENT ACTIVITIES.—Section 10(a) of the Federal Home
17	Loan Bank Act (12 U.S.C. 1430(a)) is amended——
18	(1) in paragraph (2)(B)—
19	(A) by striking "and"; and
20	(B) by inserting ", and community devel-
21	opment activities" before the period at the end
22	and
23	(2) in paragraph (6)—
24	(A) by striking "and"; and



(B) by inserting "and community develop-
ment activities'" before "shall".
TITLE III—TRANSFER OF FUNC-
TIONS, PERSONNEL, AND
PROPERTY OF OFFICE OF
FEDERAL HOUSING ENTER-
PRISE OVERSIGHT AND FED-
ERAL HOUSING FINANCE
BOARD
Subtitle A—Office of Federal
Housing Enterprise Oversight
SEC. 301. ABOLISHMENT OF OFHEO.
(a) In General.—Effective at the end of the 1-year
period beginning on the date of the enactment of this Act,
the Office of Federal Housing Enterprise Oversight of the
Department of Housing and Urban Development and the
positions of the Director and Deputy Director of such Of-
fice are abolished.
(b) Disposition of Affairs.—During the 1-year
period beginning on the date of the enactment of this Act,
the Director of the Office of Federal Housing Enterprise
Oversight shall, solely for the purpose of winding up the
affairs of the Office of Federal Housing Enterprise



24 Oversight—

1	(1) manage the employees of such Office and
2	provide for the payment of the compensation and
3	benefits of any such employee which accrue before
4	the effective date of the transfer of such employee
5	pursuant to section 303; and
6	(2) may take any other action necessary for the
7	purpose of winding up the affairs of the Office.
8	(c) Status of Employees Before Transfer.—
9	The amendments made by title I and the abolishment of
10	the Office of Federal Housing Enterprise Oversight under
11	subsection (a) of this section may not be construed to af-
12	fect the status of any employee of such Office as employ-
13	ees of an agency of the United States for purposes of any
14	other provision of law before the effective date of the
15	transfer of any such employee pursuant to section 303.
16	(d) Use of Property and Services.—
17	(1) Property.—The Director of the Federal
18	Housing Finance Agency may use the property of
19	the Office of Federal Housing Enterprise Oversight
20	to perform functions which have been transferred to
21	the Director of the Federal Housing Finance Agency
22	for such time as is reasonable to facilitate the or-
23	derly transfer of functions transferred pursuant to
24	any other provision of this Act or any amendment
25	made by this Act to any other provision of law.



1	(2) AGENCY SERVICES.—Any agency, depart-
2	ment, or other instrumentality of the United States,
3	and any successor to any such agency, department,
4	or instrumentality, which was providing supporting
5	services to the Office of Federal Housing Enterprise
6	Oversight before the expiration of the period under
7	subsection (a) in connection with functions that are
8	transferred to the Director of the Federal Housing
9	Finance Agency shall—
10	(A) continue to provide such services, on a
11	reimbursable basis, until the transfer of such
12	functions is complete; and
13	(B) consult with any such agency to co-
14	ordinate and facilitate a prompt and reasonable
15	transition.
16	(e) Savings Provisions.—
17	(1) Existing rights, duties, and obliga-
18	TIONS NOT AFFECTED.—Subsection (a) shall not af-
19	fect the validity of any right, duty, or obligation of
20	the United States, the Director of the Office of Fed-
21	eral Housing Enterprise Oversight, or any other per-
22	son, which—
23	(A) arises under or pursuant to the title
24	XIII of the Housing and Community Develop-
25	ment Act of 1992, the Federal National Mort-



1	gage Association Charter Act, the Federal
2	Home Loan Mortgage Corporation Act, or any
3	other provision of law applicable with respect to
4	such Office; and
5	(B) existed on the day before the abolish-
6	ment under subsection (a) of this section.
7	(2) Continuation of Suits.—No action or
8	other proceeding commenced by or against the Di-
9	rector of the Office of Federal Housing Enterprise
10	Oversight in connection with functions that are
11	transferred to the Director of the Federal Housing
12	Finance Agency shall abate by reason of the enact-
13	ment of this Act, except that the Director of the
14	Federal Housing Finance Agency shall be sub-
15	stituted for the Director of the Office of Federal
16	Housing Enterprise Oversight as a party to any
17	such action or proceeding.
18	SEC. 302. CONTINUATION AND COORDINATION OF CERTAIN
19	REGULATIONS.
20	All regulations, orders, determinations, and resolu-
21	tions that—
22	(1) were issued, made, prescribed, or allowed to
23	become effective by—
24	(A) the Office of Federal Housing Enter-
25	prise Oversight;



1	(B) the Secretary of Housing and Urban
2	Development and that relate to the Secretary's
3	authority under—
4	(i) title XIII of the Housing and Com-
5	munity Development Act of 1992;
6	(ii) under the Federal National Mort-
7	gage Association Charter Act, with respect
8	to the Federal National Mortgage Associa-
9	tion; or
10	(iii) the Federal Home Loan Mort-
11	gage Corporation Act; or
12	(C) a court of competent jurisdiction and
13	that relate to functions transferred by this Act;
14	and
15	(2) are in effect on the date of the abolishment
16	under section 301(a) of this Act,
17	shall remain in effect according to the terms of such regu-
18	lations, orders, determinations, and resolutions, and shall
19	be enforceable by or against the Director of the Federal
20	Housing Finance Agency until modified, terminated, set
21	aside, or superseded in accordance with applicable law by
22	such Director, as the case may be, any court of competent
23	iurisdiction or operation of law



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1	SEC. 303. TRANSFER AND RIGHTS OF EMPLOYEES OF
2	ОГНЕО.
3	(a) Transfer.—Each employee of the Office of Fed-
4	eral Housing Enterprise Oversight shall be transferred to
5	the Federal Housing Finance Agency for employment no
6	later than the date of the abolishment under section
7	301(a) of this Act and such transfer shall be deemed a
8	transfer of function for purposes of section 3503 of title
9	5, United States Code.
10	(b) Guaranteed Positions.—Each employee trans-
11	ferred under subsection (a) shall be guaranteed a position
12	with the same status, tenure, grade, and pay as that held
13	on the day immediately preceding the transfer. Each such
14	employee holding a permanent position shall not be invol-
15	untarily separated or reduced in grade or compensation
16	for 12 months after the date of transfer, except for cause
17	or, if the employee is a temporary employee, separated in
18	accordance with the terms of the appointment.
19	(c) Appointment Authority for Excepted
20	SERVICE EMPLOYEES.—
21	(1) In general.—In the case of employees oc-
22	cupying positions in the excepted service, any ap-
23	pointment authority established pursuant to law or
24	regulations of the Office of Personnel Management
25	for filling such positions shall be transferred, subject



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to paragraph (2).

1	(2) Decline of transfer.—The Director of
2	the Federal Housing Finance Agency may decline a
3	transfer of authority under paragraph (1) (and the
4	employees appointed pursuant thereto) to the extent
5	that such authority relates to positions excepted
6	from the competitive service because of their con-
7	fidential, policy-making, policy-determining, or pol-
8	icy-advocating character.
9	(d) REORGANIZATION.—If the Director of the Fed-
10	eral Housing Finance Agency determines, after the end
11	of the 1-year period beginning on the date of the abolish-
12	ment under section 201(a), that a reorganization of the
13	combined work force is required, that reorganization shall
14	be deemed a major reorganization for purposes of afford-
15	ing affected employees retirement under section
16	8336(d)(2) or 8414(b)(1)(B) of title 5, United States
17	Code.
18	(e) Employee Benefit Programs.—Any employee
19	of the Office of Federal Housing Enterprise Oversight ac-
20	cepting employment with the Director of the Federal
21	Housing Finance Agency as a result of a transfer under
22	subsection (a) may retain for 12 months after the date
23	such transfer occurs membership in any employee benefit
24	program of the Federal Housing Finance Agency or the
25	Office of Federal Housing Enterprise Oversight, as appli-



I	cable, including insurance, to which such employee belongs
2	on the date of the abolishment under section 201(a) if—
3	(1) the employee does not elect to give up the
4	benefit or membership in the program; and
5	(2) the benefit or program is continued by the
6	Director of the Federal Housing Finance Agency;
7	The difference in the costs between the benefits which
8	would have been provided by such agency and those pro-
9	vided by this section shall be paid by the Director of the
10	Federal Housing Finance Agency. If any employee elects
11	to give up membership in a health insurance program or
12	the health insurance program is not continued by such Di-
13	rector, the employee shall be permitted to select an alter-
14	nate Federal health insurance program within 30 days of
15	such election or notice, without regard to any other regu-
16	larly scheduled open season.
17	SEC. 304. TRANSFER OF PROPERTY AND FACILITIES.
18	Upon the abolishment under section 301(a), all prop-
19	erty of the Office of Federal Housing Enterprise Oversight
20	shall transfer to the Director of the Federal Housing Fi-



21 nance Agency.

Subtitle B—Federal Housing 1 **Finance Board** 2 SEC. 321. ABOLISHMENT OF THE FEDERAL HOUSING FI-4 NANCE BOARD. 5 (a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the 7 Federal Housing Finance Board (in this title referred to 8 as the "Board") is abolished. 9 (b) DISPOSITION OF AFFAIRS.—During the 1-year 10 period beginning on the date of enactment of this Act, the 11 Board, solely for the purpose of winding up the affairs 12 of the Board— 13 (1) shall manage the employees of such Board 14 and provide for the payment of the compensation 15 and benefits of any such employee which accrue be-16 fore the effective date of the transfer of such em-17 ployee under section 323; and 18 (2) may take any other action necessary for the 19 purpose of winding up the affairs of the Board. 20 (c) Status of Employees Before Transfer.— The amendments made by titles I and II and the abolish-22 ment of the Board under subsection (a) may not be con-23 strued to affect the status of any employee of such Board

as employees of an agency of the United States for pur-

poses of any other provision of law before the effective



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1	date of the transfer of any such employee under section
2	403.
3	(d) Use of Property and Services.—
4	(1) Property.—The Director of the Federal
5	Housing Finance Agency may use the property of
6	the Board to perform functions which have been
7	transferred to the Director of the Federal Housing
8	Finance Agency for such time as is reasonable to fa-
9	cilitate the orderly transfer of functions transferred
10	under any other provision of this Act or any amend-
11	ment made by this Act to any other provision of law.
12	(2) AGENCY SERVICES.—Any agency, depart-
13	ment, or other instrumentality of the United States,
14	and any successor to any such agency, department,
15	or instrumentality, which was providing supporting
16	services to the Board before the expiration of the 1-
17	year period under subsection (a) in connection with
18	functions that are transferred to the Director of the
19	Federal Housing Finance Agency shall—
20	(A) continue to provide such services, on a
21	reimbursable basis, until the transfer of such
22	functions is complete; and
23	(B) consult with any such agency to co-
24	ordinate and facilitate a prompt and reasonable
25	transition.



1	(e) Savings Provisions.—
2	(1) Existing rights, duties, and obliga-
3	TIONS NOT AFFECTED.—Subsection (a) shall not af-
4	fect the validity of any right, duty, or obligation of
5	the United States, a member of the Board, or any
6	other person, which—
7	(A) arises under title XIII of the Housing
8	and Community Development Act of 1992, the
9	Federal National Mortgage Association Charter
10	Act, the Federal Home Loan Mortgage Cor-
11	poration Act, the Federal Home Loan Bank
12	Act, or any other provision of law applicable
13	with respect to such Board; and
14	(B) existed on the day before the effective
15	date of the abolishment under subsection (a).
16	(2) Continuation of suits.—No action of
17	other proceeding commenced by or against the
18	Board in connection with functions that are trans-
19	ferred to the Director of the Federal Housing Fi-
20	nance Agency shall abate by reason of the enactment
21	of this Act, except that the Director of the Federal
22	Housing Finance Agency shall be substituted for the
23	Board or any member thereof as a party to any such



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action or proceeding.

1	SEC. 322. CONTINUATION AND COORDINATION OF CERTAIN
2	REGULATIONS.
3	(a) In General.—All regulations, orders, and deter-
4	minations described under subsection (b) shall remain in
5	effect according to the terms of such regulations, orders,
6	determinations, and resolutions, and shall be enforceable
7	by or against the Director of the Federal Housing Finance
8	Agency until modified, terminated, set aside, or super-
9	seded in accordance with applicable law by such Director,
10	any court of competent jurisdiction, or operation of law.
11	(b) APPLICABILITY.—A regulation, order, or deter-
12	mination is described under this subsection if it—
13	(1) was issued, made, prescribed, or allowed to
14	become effective by—
15	(A) the Board; or
16	(B) a court of competent jurisdiction and
17	that relate to functions transferred by this Act;
18	and
19	(2) is in effect on the effective date of the abol-
20	ishment under section 321(a).
21	SEC. 323. TRANSFER AND RIGHTS OF EMPLOYEES OF THE
22	FEDERAL HOUSING FINANCE BOARD.
23	(a) Transfer.—Each employee of the Board shall
24	be transferred to the Federal Housing Finance Agency for
25	employment not later than the effective date of the abol-

26 ishment under section 321(a), and such transfer shall be



deemed a transfer of function for purposes of section 3503 2 of title 5, United States Code. 3 (b) Guaranteed Positions.—Each employee trans-4 ferred under subsection (a) shall be guaranteed a position 5 with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer. Each such 6 7 employee holding a permanent position shall not be invol-8 untarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause 10 or, if the employee is a temporary employee, separated in accordance with the terms of the appointment. 11 12 (c) Appointment Authority for Excepted and 13 SENIOR EXECUTIVE SERVICE EMPLOYEES.— 14 (1) IN GENERAL.—In the case of employees oc-15 cupying positions in the excepted service or the Sen-16 ior Executive Service, any appointment authority es-17 tablished under law or by regulations of the Office 18 of Personnel Management for filling such positions 19 shall be transferred, subject to paragraph (2). 20 (2) Decline of transfer.—The Director of 21 the Federal Housing Finance Agency may decline a 22 transfer of authority under paragraph (1) to the ex-23 tent that such authority relates to positions excepted 24 from the competitive service because of their con-

fidential, policymaking, policy-determining, or policy-



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1	advocating character, and noncareer positions in the
2	Senior Executive Service (within the meaning of sec-
3	tion 3132(a)(7) of title 5, United States Code).
4	(d) Reorganization.—If the Director of the Fed-
5	eral Housing Finance Agency determines, after the end
6	of the 1-year period beginning on the effective date of the
7	abolishment under section 321(a), that a reorganization
8	of the combined workforce is required, that reorganization
9	shall be deemed a major reorganization for purposes of
10	affording affected employees retirement under section
11	8336(d)(2) or $8414(b)(1)(B)$ of title 5, United States
12	Code.
13	(e) Employee Benefit Programs.—
14	(1) IN GENERAL.—Any employee of the Board
15	accepting employment with the Federal Housing Fi-
16	nance Agency as a result of a transfer under sub-
17	section (a) may retain for 12 months after the date
18	on which such transfer occurs membership in any
19	employee benefit program of the Federal Housing
20	Finance Agency or the Board, as applicable, includ-
21	ing insurance, to which such employee belongs on
22	the effective date of the abolishment under section
23	321(a) if—
24	(A) the employee does not elect to give up
25	the benefit or membership in the program; and



1	(B) the benefit or program is continued by
2	the Director of the Federal Housing Finance
3	Agency.
4	(2) Cost differential.—The difference in
5	the costs between the benefits which would have
6	been provided by the Board and those provided by
7	this section shall be paid by the Director of the Fed-
8	eral Housing Finance Agency. If any employee elects
9	to give up membership in a health insurance pro-
10	gram or the health insurance program is not contin-
11	ued by such Director, the employee shall be per-
12	mitted to select an alternate Federal health insur-
13	ance program within 30 days after such election or
14	notice, without regard to any other regularly sched-
15	uled open season.
16	SEC. 324. TRANSFER OF PROPERTY AND FACILITIES.
17	Upon the effective date of the abolishment under sec-
18	tion 321(a), all property of the Board shall transfer to
19	the Director of the Federal Housing Finance Agency.

